UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 2363

To Amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

APRIL 22, 1982

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UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

THURSDAY, APRIL 22, 1982

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 2 p.m., in room 3302, Dirksen Senate Office Building, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senator Durenberger.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator DURENBERGER. The hearing will come to order.

This afternoon, the Subcommittee on Intergovernmental Relations will hear testimony on a bill to amend the Uniform Relocation Act of 1970.

This bill was transmitted to the Congress from the administration on March 25, 1982. On the whole, I am impressed with the way this legislation addresses the act's many administrative problems. I am confident that OMB will receive high marks for its earnest and comprehensive efforts to improve the administration and equity of this important law.

The Uniform Relocation Act is one of approximately 60 crosscutting requirements of Federal law and regulation. It is called a crosscutting requirement because it applies to all State and local governments which receive categorical and block grant assistance. It is not a condition placed on any particular grant. It is placed on all grants, except general revenue sharing.

One of the important issues to be considered in this hearing is whether the Uniform Relocation Act will continue to apply to block grants. The bill presented by the administration would exclude block grant funds from coverage, and thus narrow the scope of the act.

The Uniform Relocation Act has its source in the fifth amendment of the U.S. Constitution which guarantees a right to "just compensation" for property that is taken by government for a public purpose. This right protects individuals from having to bear an unfair share of the cost of public policy. However, under common law, "just compensation" has been construed narrowly to apply to physical property only. Yet, obviously, our Founding Fathers could scarcely have foreseen the advent of categorical or block grants.

Nor could they have anticipated the extent to which the average American family today is dependent on the specialized services of moving companies and mortgage loan institutions. My point is that displacement, however caused, has a cost as surely as does the loss of physical property. I am sure that anyone who "owns" an 8-percent mortgage on their home fully appreciates this fact of life.

We look forward to early action on this legislation in the committee and in the Congress. We want to clean up the Uniform Relocation Act this year. That will require that the bill be reported to the floor of the Senate by May 15. All parties with an interest are on notice that prompt comment is expected. Markup will occur within the next 3 weeks.

Our first witness this afternoon is Joseph Wright, 24-hour Deputy Director at OMB. Mr. Wright was just—that is not the length of your stay at all; that is just how long you have been confirmed. [Laughter.]

This is his first policy hearing in his new position.

The Uniform Relocation Act is a very complex piece of legislation. The amendments sent up by OMB include, by my count, 44 specific changes in the current law. If Mr. Wright has been able to master all of these issues in the short time he has been at OMB, he has done more than I have over a period of 6 months here in the subcommittee.

I am going to ask some questions of Mr. Wright when he concludes his testimony. I won't pretend that I have the answers and I don't expect hard and fast conclusions from any of our witnesses today. However, I think my questions will focus the debate for the next few weeks as we mark up this bill. I would appreciate the continued assistance of our witnesses as we resolve these issues.

Joe, we are ready for your statement.

TESTIMONY OF JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY HAL STEINBERG, ASSOCIATE DIRECTOR FOR MANAGEMENT; AND ANNELISE ANDERSON, ASSOCIATE DIRECTOR FOR ECONOMICS AND GENERAL GOVERNMENT

Mr. **Wright**. I do have a full statement for the record which I have, in the 24 hours since confirmation, been able to read three or four times. Thank you for taking my tenure and career beyond that point. I would like to summarize it very briefly, if I may, and highlight some of the points which we think are important.

You have cited, Mr. Chairman, that Uniform Relocation Assistance is one of the complex Federal mandates impacting our intergovernmental assistance programs.

When this administration took office last January, we identified approximately 60 crosscutting mandates which were being implemented in an inconsistent and unresponsive manner. This is causing confusion and, we believe, has an adverse effect on State and local governments and businesses.

We did consider several approaches to correct the problem. One was typical. It was a management system for managing the mandates.

Thank goodness it was rejected, since it would have placed a new layer of requirements without correcting those mandates.

The one we finally adopted was to inventory and assess each mandate and then pursue revisions, where required, in the statutes and/or regulations for those mandates. We have constructed a detailed inventory and are pursuing improvements with several, including a revision of the policies contained in OMB Circular A-95—which I believe we will be discussing with you this week.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act is one of the most troublesome of the crosscutting mandates. GAO found that the Federal agencies considered the act as applying only to displacement caused by Federal agencies or State agencies receiving Federal assistance, and not by other organizations such as the Baltimore Redevelopment Authority. They found the benefits were provided for certain displaced individuals but not displaced businesses. They also found that a lack of uniformity resulted in differing payments for essentially identical displacements. Thus, we concluded that Uniform Relocation Assistance was one of the biggest crosscuts that should be addressed in our program to simplify the generally applicable requirements. We have decided to expedite the process.

We have prepared a legislative proposal and believe it addresses many of the past findings of this subcommittee's oversight hearings.

The goals of our legislation are twofold: First, most importantly, to provide for relocation assistance in an efficient, cost-effective manner to those displaced by Federal action; and, second, to end unnecessary Federal provisions by allowing States and localities to establish their own relocation standards for displacements caused by local decisions and not by the Federal Government.

More specifically, our proposal would expand the act's coverage to include persons displaced by substantial rehabilitation or demolition, and persons displaced by private entities with the power of eminent domain, with the exception of public utilities. To meet the inequity that businesses suffer, we have expanded the coverage of the act to allow up to $10,000 to be paid to owners of businesses for actual and reasonable costs associated with reestablishing operations at a new site.

Furthermore, we have not included explicit mention of code enforcement since we believe that this is an application of the local police power and not a Federal power.

Our proposal eliminates the statutory ceiling on moving expenses so that a regulatory ceiling can be established by a lead agency and adjusted upward to account for inflationary increases. We propose raising the ceiling on payments which owners of businesses and farms may receive in lieu of itemized moving expenses from $10,000 to $20,000. We also propose a number of changes designed to eliminate the problems caused by the unjustifiable windfalls realized, in some instances, when identifying replacement housing or computing benefits for mortgage and rental differential payments.

Finally, in keeping with the President's commitment to promote federalism and increase State discretion, this proposed bill clarifies that block grants are exempt from coverage of the Uniform Relocation Act. Since the Federal Government is not approving specific projects under the block grant programs, we would question the appropriateness of mandating certain costs and thereby indirectly attempting to direct State decisionmaking. All this exemption does is allow States to establish relocation standards which best meet their particular needs and situations.

The administration's proposal also includes a recommendation that title III of the act be amended to establish the supremacy of State law of condemnation when the Federal agency is directly acquiring land and that acquisition does not involve an interstate or national security matter. Since the proposal was submitted, however, the Departments of Justice and Interior have raised a number of concerns about the possible interpretations of this provision. This has led us to withdraw our support of the present language. We intend to continue our looking into these issues and working with this subcommittee to accomplish the provisions' objective of a speedy resolution of disputes.

These and the other proposed changes in this bill would result in a net savings in the Federal administrative and program costs of approximately $14 million annually, on the high side. These changes would insure equity, fairness, and just compensation to those persons displaced by a Federal or federally assisted activity.

We have asked the Departments of Transportation and Housing and Urban Development to prepare a budgetary impact analysis of the proposed legislation. With the permission of the chairman, I would like to make these estimates a part of the hearing record. [See p. 10.]

OMB is also now leading an extensive interagency review of the Uniform Act regulations. We expect comments from the State and local governments on our proposed agenda by May 7.

I have brought with me a copy of the proposed agenda and will submit it for the subcommittee's information and the hearing record.

[The agenda referred to follows:]

Proposed Regulatory Review

UNIFORM ACT
TITLE II

I. Administrative Procedures

A. Problem - Different Definitions of Terms Among Various Federal Agencies

There is no uniformity among federal agencies in defining terms used in implementing the Uniform Act resulting in different treatment of persons being displaced. Terms to be defined, among others, include (1) monthly housing costs, (2) suitability/comparability, (3) dwelling, (4) ability-to-pay (5) multiple occupancy, (6) existing patronage.

B. Problem - Advisory Services Provided to Displaced Persons

There is a lack of consistency among federal agencies as to the level and type of advisory services to be provided displaced persons. There is no agreement as to minimum requirements nor what range of services should be available to displaced persons.

C. Problem - Multiple Federal Agency Funding of a Single Project

The statute is silent as to which Federal agency regulation are to be followed when two or more federal agencies jointly fund a single project. State and local agencies must carry out the project in accordance with two or more sets of regulations. This creates administrative and legal problems, and substantially increases project costs, and administrative burden on the state and local agency. This also results in inconsistent treatment of displaced persons.

D. Problem - Assurance Requirements

Section 210 of the Uniform Act requires that prior to displacement the Head of each federal agency receive assurances from the displacing agency that relocation payments, benefits, and housing will be made available to all displacees. Federal agencies require these assurances [illegible] in various forms, ranging from a simple project or one-time city/state-wide certification to a project relocation plan. This results in a lack of federal agency uniformity in meeting the Section 210 assurances requirement.

II. Benefit Level/Computations of Payments/Eligibility

A. Problem - Triggering of Last Resort Housing

Different federal agency procedures exist as to when the provisions of last resort housing are triggered. Federal agency regulations vary on this issue resulting in different treatment of persons in similar situation. Also, causing confusion and administrative problems for state and local agencies carrying out displacement programs.

B. Problem - Different Interpretations of What Constitutes Eligible Moving Expenses

Section 202 of the Uniform Act provides for payment of actual reasonable moving expenses. Federal agency implementing regulations differ as to what constitutes a eligible moving expense item. These differences particularly impact on businesses, resulting in different treatment of persons in similar situations. It also affects state and local agency administration of federally-assisted projects by creating administrative confusion and increased potential for litigation.

C. Problem - Number of Different Trigger Dates for Eligibility for Relocation Benefits

The eligibility for relocation benefits will vary for persons to be displaced in accordance with the time they initially occupied a property within the project. For example, a residential tenant who was in occupancy at least 90 days prior to initiation of negotiations by the diplacing agency to acquire the property would be eligible for all of the relocation benefits provided for in the Uniform Act (e.g., help in finding a replacement dwelling, a replacement housing payment to help buy or rent such housing, and a moving expense payment). For a homeowner, it is a period of at least 180 days. Other occupants may not meet this test; however, they would be eligible for lesser relocation benefits. A uniform rule is needed to minimize existing inequities and inconsistent treatment of persons. Such a rule, however, should be sufficiently flexible to allow agencies to provide benefits to persons other than those covered by the basis rule (e.g., hardship situations).

TITLE III
SECTION 301

III. Title III - Acquisiton

A. Problem - Appraisal Review

There is no specific statutory provision in the existing Uniform Act which requires a review of appraisals by the acquiring agency. Consequently, occasions have arisen whereby the propriety of requiring any type of review appraisal process has been questioned. Further, there are known instances, primarily at the local government level, where no review was performed. Mandating an appraisal review process through regulatory action will result in eliminating any question, minimizing waste, fraud and abuse, and would be cost beneficial. A 1980 GAO report entitleed "Federal Land Acquisitions By Condemnation - Opportunities to Reduce Delays and Costs" discusses this problem area in some detail.

B. Problem - Valuation and Acquisition of Tenant-Owned Improvements

Existing Section 302 language which prescribes requirements for dealing with tenant-owned improvements is vague, difficult to understand and implement with consistency. Therefore, regulatory guidance which simplifies the requirement in order to achieve a uniform government-wide implementation, consistent with longstanding valuation concepts, would result in fairness and equity to the tenant-owner, be cost effective to the acquiring agencies and reduce red tape.

C. Problem - Standard Appraisal Requirements

The existing Federal legislation does not provide any guidance or minimum standards concerning appraisal requirements. Currently, some governmental agencies mandate much more than is necessary in appraisal reports while others accept less than is needed to adequately support the offer of just compensation. A regulatory requirement which would prescribe minimum standards and criteria which relates to the valuation problem encountered would enhance uniformity, (where such does not now exist) minimize administrative costs, and ensure a prudent expenditure of public funds.

D. Problem - Admnistrative Settlements of Acquisition Cases

Current legislation advocates that "every reasonable effort to acquire expeditiously real property by negotiation" shall be made. There are no minimum standards for making administrative payments in excess of the initial offer of just compensation in the present law. A recent GAO study and report "Federal Land Acquisition by Condemnation -- Opportunities to Reduce Delays and Costs" highlighted aspects of this controversial problem which can be quite delicate and sensitive since such settlements, without proper control and guidance, can result in overpayments which would not be cost effective. Proper explanation and controls included in regulatory guidance would eliminate, or at least minimize waste, relieve congestion in the courts and in the case of Interior and the Corps may reduce federal litigation costs.

E. Problem - Summary Statement of Just Compensation (to property owner)

The existing requirement for the summary statement to be given to property owners is vague, confusing, and subject to various interpretations. Current agency requirements vary considerably in this area. For example, some only require a statement of the offer of just compensation while others require a lengthy explanation of the appraisal process including an analysis similar to what might be expected in a public informational brochure.

Therefore, a clarification in the form of a regulation by which all agencies would be governed would reduce paperwork, increase uniformity, and result in adminstrative cost savings. The phrase " and summary of the basis for" (Section 301 (3)) is specifically the source of the problem that is in need of clarification.

ANALYTIC CRITERIA

Seven criteria have been identified as "guiding principles" for the development of a set of uniform regulations to implement the Uniform Act. These criteria -- which incorporate general management concepts, political requirements, and the Administration goals of (1) relieving federal regulatory burdens on states and local governments, (2) limiting the growth of federal government, and (3) creating a more effective federal/state partnership -- are used to assess each of the major issues identified in this paper. Specifically, they are:

- Does it meet equity and fairness principles?
- Does it reduce or eliminate administrative costs on state and local governments?
- Does it eliminate or reduce unnecessary federal "strings" on assistance?
- Does it eliminate windfalls for beneficiaries?
- Does it eliminate waste, fraud, and abuse?
- Does it fulfill Congressional intent?
- Is it cost beneficial?

Tab A

Costs and Savings Estimates, S. 2363 Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982

The estimates which follow were derived by a comparison and consolidation of DOT and HUD estimates to arrive at a high and low range.

The estimates in some cases are largely speculative in that, for example, we are not certain what the impact would be of the block grant exemption on the utilization rates by block grant recipients. Furthermore, each estimates should be viewed according to past experience under provisions which would be revised. The assumptions inherent in the estimates might be considerably different once experience under the revised authority was assessed.

HUD and DOT staff have estimated that the budget impact of the proposed bill will be a net savings (decreases in outlays) of from $4.6 million to $13.4 million.* The estimates effect by section is as follows:

Section	Increase or Decrease in Outlays (millions of dollars)		
101(6)	+ 2.0	(increased outlays)	
202(a)(4)	+ 13.6 to +20.4	"	"
202(b)	+ 2.7	"	"
202(c)	+ 6.0 to + 8.0	"	"
203	- 19.5	(decreased outlays)	
204	- 14.5	"	"
206	- 3.2	"	"
301	- .5	"	"
	- 13.4 to - 4.6		

*This does not include estimated costs and/or savings of the proposed Title III of Section 301 (non preemption) which primarily affects federal agencies involved in a direct federal taking of land (i.e., Interior, Corps of Engineers, etc.)

Mr. Wright. I would like to express our appreciation to you, Mr. Chairman, and the subcommittee staff for your considerable effort in helping to develop this legislation.

I would be pleased to respond to any questions you or members of the subcommittee may have.

Thank you very much.

Senator Durenberger. Thank you.

Let me start by addressing a series of questions to you and your associates on the subject of eminent domain.

Let me see if I can clarify the issue a little bit. Each of the 50 States have a well-established eminent domain law that sets the procedures and standards for compensation when an agency of State or local government takes private property for a public purpose. Is it accurate to say that there is a great variation of these laws across the 50 States?

Mr. Wright. Yes, sir, it is.

Senator Durenberger. In many cases when the 50 States have different laws in a particular area, the Federal Government will step in, for a Federal or national purpose, and impose one uniform law. Just a few illustrations would be interstate commerce, constitutional guarantees of civil rights, public health and safety, better environment and so forth.

However, in the case of condemnation law, I doubt that there is any Federal purpose, which would justify a congressional imposition of uniformity on State condemnation laws, that apply to the taking of private property by State and local government agencies when those agencies are using their own resources to achieve their own purposes.

Would you agree to that?

Mr. Wright. Mr. Chairman, I am not really sure of that answer since this is one of the questions the Department of Justice has raised. I think we will be going through a review to answer that question over the next few weeks.

Senator Durenberger. Who is analyzing that over the next few weeks?

Mr. Wright. We will, Mr. Chairman, with the Department of Justice and others.

Senator Durenberger. The question I asked you dealt mainly with State condemnation of private property by State and local agencies using, in effect, State resources. Is that the issue that you and Justice are looking at?

Mr. Wright. I think it is really a situation where we have different State laws and a concern that there is not a need to make those State laws uniform in this area.

Senator Durenberger. So, the issue you are telling us—that is still an open question on your part—is your recommendation that current law be changed in regard to State condemnation procedures. Is that correct?

Mr. Wright. Yes, sir; that is still open.

Senator Durenberger. Let me ask you some questions about block grants. Again, this may be a little unfair after only 24 hours in office. If you have had a chance to read my introductory statement on the bill introduced at the request of the administration, I said that block grants should not be exempted from coverage under the act.

Before I get to the specifics of the Uniform Relocation Act, let me touch on the subject of block grants and the crosscutting requirements in general. The crosscutting requirements, which we know so well—like the Davis-Bacon Act, the National Environmental Policy Act, the Rehabilitation Act, the Civil Rights Act, and several OMB circulars, including the one establishing audit procedures—numbered something like 60 in total.

I am curious to know if the OMB decision to recommend the exemption of block grants from the Uniform Relocation Act indicates a general approach on the part of the administration on the subject of crosscutting requirements. In other words, are all block grants to be exempt from all crosscutting requirements?

Mr. **Wright**. No, Mr. Chairman. We will be taking a look at all of the crosscutting requirements individually. We don't think it would be appropriate to make a general exemption across the board.

Senator **Durenberger**. Do you have any position yet on title VI of the Civil Rights Act, in particular?

Mr. **Wright**. In that one, Mr. Chairman, I believe that is a legal requirement which was to apply to all activities across the country regardless of whether or not they were State, local, or Federal.

I believe that is one of the differences between that particular act. Certainly we are talking about it today.

Senator **Durenberger**. What about something that is close to your heart down at OMB, like Circular A-102, which provides for the audit standards? Will OMB insist that State and local grant recipients observe the provisions of A-102 in the implementation of block grants?

Mr. **Wright**. No, we won't, Mr. Chairman.

Senator **Durenberger**. Specifically on Uniform Relocation Act, am I correct in assuming that 90 percent of the current displacements are a result of either HUD or DOT programs?

Mr. **Wright**. Yes, Mr. Chairman. It will be if the highway funds become block grants.

Senator **Durenberger**. If the highway funds become block grants?

Mr. **Wright**. Yes.

Senator **Durenberger**. Is HUD suggesting that CDBG be exempt from the Uniform Relocation Act?

Mr. **Wright**. Yes, sir, they are.

Senator **Durenberger**. Is Drew Lewis at DOT suggesting that the transportation programs of FHWA be blocked? Is that part of his recommendation?

Mr. **Wright**. I believe that is correct, Mr. Chairman.

Senator **Durenberger**. Last year, this subcommittee held a hearing on management provisions for the block grants. We drafted some boilerplate language. Part of that language dealt with the crosscutting requirements. One of the suggestions which was made—it was only a suggestion, I throw it out only for your reaction—is that, as far as block grants are concerned, it should be assumed that the States are in compliance with the crosscutting requirements.

We will start with that assumption. There would be no particular paperwork involved to prove that compliance. If a State or local government were challenged on the compliance question, then the Federal agency administering the grant would hold an informal hearing. The State or local government would be able to prove compliance if it could demonstrate one of two things: Either it was in compliance with the provisions of that crosscutting requirement under the regulations of some other categorical program administered by the same agency, or it had laws and regulations which had been certified by the lead agency on the crosscut as not in compliance with the Federal standards.

Do you think that kind of approach to the block grant issue might be helpful?

Mr. WRIGHT. Mr. Chairman, that might work. I think, as a suggestion, that is something we can look at further with you and the subcommittee. The only question I really have is whether or not the additional complication is necessary. I am really not prepared to answer that question at this time.

Senator DURENBERGER. Thank you. I have no further questions to ask. I appreciate your testimony.

[Mr. Wright's prepared statement follows:]

Remarks of Joseph Wright
Deputy Director of the Office of Management and Budget
before the
Senate Subcommittee on Intergovernmental Relations
Committee on Governmental Affairs

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

Good afternoon, Mr. Chairman, members of the Subcommittee. I am pleased to have the opportunity to appear before this subcommittee and testify on the Administration's proposal to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The Crosscutting Federal Mandates

Mr. Chairman, you have cited Uniform Relocation Assistance as one of the complex federal mandates impacting our intergovernmental assistance programs. Before I begin a discussion of our proposal, I would like to briefly describe our overall approach to these generally applicable national policy requirements. When this Administration took office last January, we identified approximately 60 crosscutting mandates. We found that the mandates were implemented in an inconsistent and unresponsive manner, and in some cases agencies were uncertain about who was responsible for assuring implementation. This confusion has had a tremendous adverse impact on State and local governments and businesses impacted by these requirements.

We therefore considered several approaches to correct the problem. One approach we considered was to issue an OMB circular requiring agencies to adopt a management system and performance standards for managing the mandates. It was rejected because it would do nothing more than impose a new layer of requirements without correcting the mandates. Another approach considered, and the one finally adopted, was to inventory and assess each mandate, and to then pursue revisions in statutes and/or regulations for those mandates where there is compelling evidence that change is needed.

Using this approach, we have constructed a detailed inventory of all the generally applicable requirements and are simultaneously pursuing improvements with several.

For example,

-- There were complaints that OMB was not providing guidance for the implementation of the single audit policy set forth in Circular A-102, "Uniform Requirements for Grants to State and Local Governments." In response, we developed a time-phased action plan with over a hundred individual steps to be taken by OMB and others. This is bringing the single audit from an excellent idea to reality.

-- University administrators and faculty members expressed concern about excessive recordkeeping requirements associated with federal grant programs. In response, we have developed a proposed revision of Circular A-21, "Cost Principles for Educational Institutions," and have published it in the Federal Register for public comment. The revisions are intended to reduce reporting and recordkeeping on universities, while still maintaining the necessary degree of accountability for federal funds.

-- After extensive consultation with the agencies, we are revising the OMB guidance for implementing the Federal Grant and Cooperative Agreement Act (P.L. 95-224). This Act tells agencies when they are to follow the policies and procedures for federal procurement and when they are to follow the policies for grants and cooperative agreements.

-- The Patent Amendments of 1980 (P.L. 96-517) give universities and non-profit organizations rights to patents that follow from federally funded research. We developed implementing policies (OMB Circular A-124) that eliminate the previous differences in agency practices, and are common to both procurement and assistance activities.

-- In still another area, we will soon be working with several federal agencies, State and local governments, and others to improve the management of the historic and archeological preservation requirements.

Also as you know, we will soon be discussing before this Subcommittee a revision of the policies contained in OMB Circular No. A-95. These policies, designed to foster State and local reviews of proposed federal actions, have been so detailed and prescriptive as to actually discourage the process in several instances. Our new policies, therefore, will be much simpler and easier to apply, yet consistent with the Administration's Federalism principles.

Problems with the Uniform Relocation Assistance Requirement

The Uniform Relocation Assistance and Real Property Acquisition Policies Act is one of the most troublesome of the crosscutting mandates, as the General Accounting Office discussed in a 1978 Report. The GAO found that:

- Federal agencies have considered the Act as applying only to displacement caused by federal agencies or State agencies receiving federal assistance, and not by other organizations.

- Benefits were provided certain displaced individuals, but not displaced businesses

- The lack of uniformity among federal agency regulations resulted in differing payments for essentially identical displacements

Thus, we concluded that Uniform Relocation Assistance was one of the crosscuts that should be addressed in our program to simplify the generally applicable requirements. Moreover, we decided that to expedite the process, rather than use the typical lead agency approach, we in OMB would temporarily coordinate the Executive Branch effort.

To that end, we have prepared a legislative proposal in close collaboration with the affected operating agencies, state and local governments, and interest groups. We believe it addresses many of the past findings of this Committee's oversight hearings, and particularly the work of Senator Durenberger and Senator Sasser.

In general, the goals of the Administration's proposed amendments are two-fold: first, to provide fair relocation assistance in an efficient, cost-effective manner to those displaced by federal action and, second, to end unnecessary federal prescriptiveness by allowing States and localities to establish their own relocation standards for displacement caused by local decisions, not by the federal government. I would now like, therefore, to discuss the specific legislative changes the Administration has proposed for consideration by this Committee.

Ensuring More Equitable Treatment for Persons Displaced by Federal or Federally-Assisted Programs in a Cost-Effective And Efficient Manner:

Presently, persons displaced by substantial rehabilitation or demolition are not covered by the Act. Also, persons displaced by private entities with the power of eminent domain are not covered by the Act. These limitations mean the beneficiary population is very narrowly circumscribed and certain federally-assisted activities displace and create hardships for persons not entitled to benefits.

Our proposal would expand the Act's coverage to include persons displaced by substantial rehabilitation or demolition (for purposes of moving expenses and advisory services), and persons displaced by private entities with the power of eminent domain, except for public utilities. We have not included public utilities because there are already substantial State laws and regulations governing their conduct in these matters. Also, the amount of displacement caused by utilities is usually small, involving for the most part no more than the seeking of easements.

To meet the inequity businesses suffer, we have expanded the coverage of the Act to allow up to $10,000 to be paid to owners of businesses for actual and reasonable costs associated with reestablishing operations at a new site.

Furthermore, we have not included explicit mention of code enforcement. Code enforcement is an application of a local police power, not a federal power. Since it is a local decision and not a federal decision, we believe that any relocation cost associated with code enforcement should be a local decision, not a federal decision.

Raising or Eliminating Various Benefit Ceilings to Account for the Impact of Inflation over the Past Decade:

The current statutory ceiling on moving expenses is impractical and not cost effective. Our proposal eliminates the statutory ceiling so that a regulatory ceiling can be established by the lead agency and adjusted upward to account for any further inflationary increases. This also reduces a paperwork burden by reducing the incentive to itemize expenses.

We propose raising the ceiling on payments which owners of businesses and farms may receive in lieu of itemized moving expenses from $10,000 to $20,000. Experience under the present Act suggests the $10,000 does not adequately compensate for the costs of relocation in many instances. Also, we believe this will reduce the adverse impact on the local economy by reducing the economic harm to small businesses because of displacement.

Eliminating Unjustifiable Windfalls and Unnecessary Requirements:

Perhaps the most onerous aspects of the current Act are the unnecessary and unjustifiable windfalls realized in some instances when identifying replacement housing or computing benefits for mortgage and rental differential payments. We have proposed a number of changes designed to eliminate these problems.

They include:

- Changing the definition of the dwelling to which displaced persons are entitled to be relocated from "comparable" to "suitable" replacement dwellings, thus eliminating an estimated $15 million in unnecessary payments. The "comparable" term has resulted in substantial redtape and windfalls.

- Consistent with our changes in the subsidized housing area, changing the basis of the rental differential subsidy formula from 25 percent of income to 30 percent of income -- a figure more in keeping with what most families are paying for housing. It would also be consistent with the changes made in the Omnibus Budget Reconciliation Act of 1981, which rasised the tenant contribution in HUD's assisted housing programs from 25% to 30% of income. This provision would end unnecessary windfalls and reduce total payments by about $20 million annually.

- Reducing the number of years for which a person's rent may be subsidized from 4 to 2 years, while increasing the effective annual payment for $1,000 to $1,500 to account for the inflation of the past decade. This proposal, recognizes that the Uniform Relocation Act is not the appropriate method of addressing long term rental needs (we have assisted housing programs for this purpose) and that renters exhibit a high degree of mobility. This should result in an estimated savings of about $14.5 million.

Advancing the Concept of Federalism and Increased State Discretion:

Finally, in keeping with the President's commitment to promote Federalism and increased State discretion, this proposed bill clarifies that block grants are exempt from coverage of the Uniform Relocation Act.

Under block grants, the federal government uses a statutory formula to provide States with funds to be used for very broad purposes, for example, in the case of the HUD Small Cities Community Development Block Grant, to promote community development and relieve urban blight, the States themselves decide the projects they will undertake, what goes into the projects, and how they will be paid for. Applying the Uniform Relocation Assistance Act to block grants would be specifying a purpose for which block grant funds should be expended. We do not think this is appropriate considering the degree of discretion both the Administration and this Congress have delegated to block grant recipients. Also, as you know the Uniform Relocation Assistance Act applies, by its own terms, to State projects only if the federal government must "approve" the grant for use in a "program or project". This is not the case with block grants, Because, as I stated, the federal government is not approving specific projects under block grant programs. We would, therefore, question the appropriateness of mandating certain costs and thereby indirectly attempting to direct State decision-making.

Finally, let me assure you that HUD's Community Development Block Grant funds will still be available to pay for any State or locally determined relocation expenses. All this exemption does is to allow States to establish relocation standards that best meet their particular needs and situations and to end unnecessary federal prescriptiveness as it relates to relocation benefits for displacement caused by non-federal actions and decisions.

The Administration's proposals also included a recommendation that Title III of the Act be amended to establish the supremacy of state law of condemnation when a federal agency is directly acquiring land, where the acquisition does not involve an interstate or national security matter. Our purpose was to promote equitable and efficient procedures to ensure fair compensation to landowners, in a manner consistent with federalism principles. Since this proposal was submitted, the Departments of Justice and Interior have raised a number of concerns about the possible interpretations of this provision which have led us to withdraw our support for the present language. However, we intend to continue to look into these issues and wish to work with the Committee to accomplish the objective of speedy resolution of disputes arising from federal condemnation of land.

Savings

These and other proposed changes in the proposed bill will result in net savings in federal administrative and program costs of as much as $14 million annually. In addition, the expanded coverage will advance the Congressional intent embodied in the purposes of the original Act to ensure equity and fairness and just compensation to those persons displaced by a federal or federally-assisted activity. As part of our preparations for this hearing, we asked the Departments of Transportation and Housing and Urban Developement to prepare a budgetary impact analysis for the proposed legislation. With the permission of the Chairman, I would like to make these estimates a part of the record of these hearings.

Conclusion

Before concluding my presentation, I would also like to note that OMB is now leading an extensive interagency review of the existing Uniform Act regulations. We expect comments from State and local governments on our proposed agenda by May 7, 1982. In that connection I have brought with me a copy of the proposed agenda and will submit it for the Committee's information.

In closing, I would like to express our sincere appreciation to you, Senator Durenberger, and the Committee staff for your considerable effort and help in developing this legislation. We look forward to a continued close working relationship with the Subcommittee on this and other important intergovernmental policy matters.

I would be pleased to respond, Mr. Chairman, to any questions you or members of the Committee may have.

Thank you.

Senator **Durenberger**. Our next two witnesses will be Mr. Stephen Bollinger, the Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development and Charles Swinburn, Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation.

Mr. Bollinger, do you intend to go first?

TESTIMONY OF STEPHEN BOLLINGER, ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND CHARLES SWINBURN, DEPUTY ASSISTANT SECRETARY FOR POLICY AND PROGRAM DEVELOPMENT, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY JOSEPH O'CONNOR, ASSOCIATE ADMINISTRATOR FOR RIGHT OF WAY AND ENVIRONMENT, FEDERAL HIGHWAY ADMINISTRATION, AND JOSEPH CANNY, DEPUTY DIRECTOR, OFFICE OF ECONOMICS, DOT

Mr. **Bollinger**. I appreciate it.

I am here to talk about relocation. On behalf of Secretary Pierce and our friend, Under Secretary Donald Houde, who is also here with me today, I want to thank you for the opportunity to talk briefly about the Uniform Relocation Act. I will try to talk very quickly because I may have to be relocated very quickly myself. My wife and I are expecting our third child and it is past due. So I am expecting a call at any moment to let me know.

Senator **Durenberger**. Wait until you get to the fourth one. [Laughter.]

Mr. **Bollinger**. That is what she is threatening me with.

I have, as did the previous witness, some more detailed comments which I would like to submit for the record.

I am here because the Department is very strong in its support for S. 2363. We think that, because it has been over 11 years since the Uniform Act was enacted, this is certainly the right time and opportunity for us to work with you and members of the subcommittee to discuss the kinds of amendments which we are proposing.

There are a variety of reasons for the positive record of the act. However, I think those of us who are familiar—and certainly you are, Senator—with the act know very well that the record has been achieved in spite of what we feel to be some very great needs for significant changes. HUD believes S. 2363 contains sound proposals to deal with many knotty issues which have been working against sensible relocation programs at the local level and which have generated a backlash against the Uniform Act by many citizens and State and local officials.

This backlash, which includes a perception of unwarranted windfalls, however infrequent they may actually be, has reinforced efforts to narrowly limit coverage under the act and to ignore the circumstances of persons directly displaced by nonacquisition activities under federally-assisted programs. To deal with the latter situation, under some programs, relocation rules to protect tenants have been established administratively by regulation. However, these rules vary, resulting in inconsistencies with the Uniform Act rules.

While S. 2363 would mean some direct cash savings to displacing agencies, these savings greatly understate the contribution the amendments would make in terms of equity for affected persons and the smooth operation of public relocation programs. The changes would eliminate many costly project delays—costs which we cannot quantify—while assuring fair and equitable treatment for all those displaced by activities which are subject to the Uniform Act.

In summary, S. 2363 would:

One: Expand coverage to certain persons directly displaced by rehabilitation or demolition activity. This is the fair thing to do. It will generally eliminate the inconsistencies to which I referred earlier.

Two: Direct financial support for the relocation of tenants to the truly needy and facilitate the use of assisted housing to meet the deep subsidy often required when relocating very low-income persons.

Three: Make sensible reforms that will encourage public support for the Uniform Act. To provide a realistic model for State and local legislative and regulatory efforts is important. Under the New Federalism concept embodied in this bill, which would exempt block grant activities from the act, we feel this model role will be particularly important.

It is gratifying that the Uniform Act is receiving the scrutiny and public debate that it is going to receive today and in days to come. You and your staff are to be commended for the vigor and persistence with which you have pursued this undertaking.

I am equally pleased that, for the first time in the 11-year history of the act, the executive branch has prepared a comprehensive response to the issues presented. This gives me a firm basis for believing that the needed changes in this bill can be enacted in this session of the Congress. We are very hopeful of that, Mr. Chairman.

When you invited an official from HUD to testify before this hearing, you described a number of issues which should be addressed. The first concern you raised relates to the provision in S. 2363 which would exclude from Uniform Act protections all persons displaced by block grant programs. Furthermore, you asked whether, in the absence of Uniform Act protections, individuals would receive as fair and equitable treatment under State and local laws. You also asked in what ways State and local laws differ from the Uniform Act, as modified by these amendments.

Preliminarily, I believe that I should state more fully the Department's basis for supporting the proposed amendments. The basis is twofold. First, a basic inconsistency has been noted by a Federal court of appeals between the Uniform Act, which contemplates "discretionary Federal approval and specific requests to fund specific projects," and a program—such as the community development block grant program—where Federal funds are distributed on an entitlement basis for broadly prescribed purposes without preliminary project-specific application.

Second, the block grant statute itself authorizes relocation assistance and payments of a broader range than those mandated by the Uniform Act. There is no fixed limit on either the level of payments or the causes of displacement creating eligibility. We believe that the specific mandatory prescriptions of the Uniform Act necessarily, and unfortunately, limit the ability of States and localities to determine priorities consistent with local needs.

The court decision to which I refer is *Goolsby* v. *Blumenthal*, an en banc decision of the fifth circuit in 1979. That decision held the Uniform Act inapplicable to activities assisted by general revenue sharing funds.

In part, the decision emphasized the "no-strings" approach of the revenue sharing statute. Though the community development block grant program is emphatically not a general revenue sharing program, there are strong similarities in that funds are allocated by formula and can be used for a broad range of purposes.

More importantly, however, the basic inconsistencies between the Uniform Act and the mechanisms of the revenue sharing act, which were noted in part I of the fifth circuit opinion, appear to us to be equally applicable to the block grant statute. Block grant recipients are assured receipt of their formula grants, subject to prescribed certifications and statements of community development activities and projected uses of funds. To quote Judge Thornberry's opinion in *Goolsby*:

> I am at a loss to understand how these two acts can work in consort if one act provides for automatic distribution and the other act contemplates prior Federal approval for specifically proposed projects.

Beyond this, we believe that there is a more fundamental divergence between the mandatory prescriptions of the Uniform Act and the broad local decisional authority assured by the block grant statute. Section 105(A)(11) of the Housing and Community Development Act of 1979 defines as an eligible use of block grant funds, "Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate." These are not limited to payments or assistance mandated by the Uniform Act.

It has become obvious, from complaints received during the history of the block grant program, that the Uniform Act occupies only a part of the universe of displacement resulting from block grant assistance. We believe that congressional selection out of this universe of the circumstances in which relocation payments are required to be paid, and in what amounts, is necessarily injurious to the ability of the community itself to determine when and under what circumstances block grant funds are to be used to assist displaced persons. It is a form of external prescription on the use of block grant funds—external, that is, to the block grant statute itself—which has no parallel either outside or inside the block grant statute.

In this context, I have to remark, Mr. Chairman, that your question inquiring as to treatment which would be afforded "under State and local laws" does not indicate the limits on relocation assistance that would be permitted to be provided from block grant funds in the absence of Uniform Act mandates. States and localities are not limited to relocation assistance specifically required by law. However, the Department believes that the various States have, or will, enact legislation which is appropriate to the needs of displaced persons within each State.

We believe that the sensible reforms described in S. 2363 would provide a good model for State legislation, and that most States will enact legislation which provides treatment generally consistent with the Uniform Act, as modified by these amendments. Where States do not enact such legislation, localities may voluntarily adopt appropriate relocation rules. As I indicated earlier, relocation costs are an eligible CDBG expense. Uniform Act relocation payments, and other assistance, are estimated to have cost about $84 million—or about 4 percent of the proposed CDBG program costs in 1981. Of course, even with the block grant exemption, the Uniform Act would apply to other programs—including UDAG—where there is specific project approval.

Regarding your question as to the Department's position on relocation coverage for displacement by code enforcement and rehabilitation other than "substantial" rehabilitation, HUD believes that timely code enforcement can help to prevent deterioration of the housing stock and resulting displacement through abandonment.

Essentially, the exclusion of code enforcement from S. 2363 leaves the decision, as to the appropriate level of relocation assistance to be provided to those displaced by code enforcement, to the discretion of the locality. This is appropriate since code enforcement is a local police power, designed and implemented by local governments, and is not a Federal power, responsibility, or decision.

As for rehabilitation other than "substantial," there seems to be an unfortunate misunderstanding. The phrase, "substantial rehabilitation," is intended to end expensive and unjustifiable relocation benefits. It excludes from coverage occupants of property being rehabilitated who are not required to move permanently. If the occupant must be permanently displaced because of extensive federally financed rehabilitation work, he or she would be covered by these proposed amendments.

Mr. Chairman, you also asked that I address "displacement activities" resulting from "foreclosures on certain federally financed projects." First, foreclosure itself is a result of a failure under a HUD insurance or direct loan program. It is never a direct cause for displacement. When HUD acquires a multifamily property through foreclosure, HUD allows any tenant legally occupying a unit to remain in occupancy. After acquisition, displacement could occur in those instances where demolition of units is required, or where rehabilitation requirements necessitate displacement. The Uniform Relocation Act, as currently enacted, does not apply. Where permanent displacement is necessary, tenants are provided assistance in relocating to affordable housing. Out-of-pocket moving costs are paid by HUD. If the displaced person is eligible for section 8, HUD will either find another subsidized unit or provide a section 8 certificate of family participation which allows occupancy in a unit of private ownership with no added cost to the tenant. Therefore, no tenant is financially affected by displacement from a HUD-owned property.

Few families are displaced from HUD-owned projects. In the past 12 months, with an inventory of approximately 30,000 units, less than 200 families were displaced. The average relocation cost per family is estimated to be $400.

Finally, Mr. Chairman, you asked about HUD's current role in providing relocation assistance—both under the Uniform Act and by regulation—the number of persons displaced annually, the cost of such assistance, and its costly benefits to the communities involved.

With limited exceptions involving the disposition of property acquired in connection with a HUD insurance program, the Department does not directly provide relocation assistance. Under HUD-assisted programs, relocation assistance is provided by local agencies and private developers. The levels of assistance vary from full Uniform Act coverage for over 15,000 persons displaced each year, to administrative rules to protect residential tenants under certain HUD-assisted housing programs, to activities such as CDBG-assisted rehabilitation where the provision of relocation assistance is discretionary. HUD provides technical assistance in all areas. For the first two categories, HUD conducts aggressive compliance monitoring which involves an after-the-fact review of a random sample of case files, along with interviews of displaced persons and inspections of replacement housing.

Under the Uniform Act, over 13,000 households and 2,400 businesses were displaced by HUD-assisted programs at a cost of more than $105 million in fiscal year 1980—the last year for which data is available. More than 3,000 others, displaced by non-Uniform Act activities, received payments for moving and related expenses under the CDBG program in fiscal year 1980. Under HUD-assisted housing programs, most affected tenants are low-income and are provided the opportunity to occupy subsidized housing. A small number receive referrals to suitable—affordable—unsubsidized replacement housing. All residential tenants receive appropriate reimbursement for moving expenses.

We believe that localities generally find the provision of relocation assistance to be cost effective—providing assistance to those who need it, while at the same time helping administrators achieve program objectives more expeditiously. For this reason, we estimate that, after the exclusion of the CDBG program from the Uniform Act, most localities will continue to provide substantial levels of relocation assistance with or without changes in State law.

Mr. Chairman, this concludes my prepared remarks. I will be happy, of course, to answer any questions which you may have.

Senator **Durenberger**. Thank you.

Since you answered the questions we submitted to you, and because of your personal relocation issue, let me just ask you a couple of clarifying questions. Then I will let you go.

Is it a fact that HUD has just recently requested from Justice a ruling on whether Uniform Relocation Act should continue to apply to the small city CDBG?

Mr. **Bollinger**. HUD and OMB are requesting the opinion.

Senator **Durenberger**. That was the small cities program?

Mr. **Bollinger**. The State program. That is correct.

Senator **Durenberger**. Any reason why it was not applied to CDBG as a whole?

Mr. **Bollinger**. When the issue directly surfaced, our effort was to get regulations out as soon as possible with respect to the State-run small cities program. We were addressing that issue earlier. The request to Justice also covers the CDBG entitlement program, as amended in 1981.

Senator **Durenberger**. Have you suspended the Uniform Relocation Act for the State-run small cities CDBG until you receive an answer?

Mr. **Bollinger**. It's not really a matter of suspension. The final rule for the State-run CDBG small cities program does not identify the Uniform Act as one of the applicable laws. However, should the

Department of Justice find that the Uniform Act is applicable, we will amend the State regulations.

Senator **Durenberger**. In light of your statement and some of the testimony I expect we will hear a little later this afternoon, you sampled 20 State laws and only two States had relocation statutes which provide protection equal to the Uniform Act. With the proposed 1983 reductions in domestic assistance on top of the 1982 reductions, it seems to me we will be putting great pressure on State and local governments to internalize the costs of public programs—in many cases those which are least able to afford it. By exempting the block grants from the act, it might be construed that we are abandoning people at exactly the time when they are least likely to receive fair consideration.

I wonder if you have any estimate of how much relocation assistance cities and States can be expected to pay voluntarily compared to what they would otherwise be required to spend.

Mr. **Bollinger**. We have no accurate data on that, Senator. We can only rely upon our past experience when there has not been direct Federal involvement in the activities of the local units of government. We feel they have, in most cases, accommodated the relocation needs of the people being displaced.

Senator **Durenberger**. One last question which deals with the concern that your statement indicated we might share. That is, we ought to be less concerned with statutorily defining the activities which trigger displacements and focus a little more on the effect of displacement. An example of this is that it doesn't seem to matter much whether the cost of displacing is something called "substantial rehabilitation" or just plain "rehabilitation." It seems to me that if a person is displaced—whether it is as a result of increased rent or forcible eviction—the person is displaced. Based on your position, can I assume that you would be willing to support a provision which would, at the very least, provide authority to a displacing agency to pay relocation assistance when it determines that displacement is both permanent and involuntary and is the direct result of a Federal program? Would that be a fair statement of your position?

Mr. **Bollinger**. I think so, Senator; yes.

Senator **Durenberger**. Thank you very much for your testimony.

Mr. Swinburn, would you please proceed?

Mr. **Swinburn**. Thank you, Mr. Chairman. I appreciate the opportunity to present the views of the Department of Transportation in support of S. 2363.

With me this afternoon are Mr. Joseph O'Connor, Associate Administrator for Right-of-Way and Environment of the Federal Highway Administration; and Mr. Joseph Canny, Deputy Director of our Office of Economics.

I have a longer statement which I will submit for the record. I will present you with an abbreviated version.

Senator **Durenberger**. It will be made part of the record.

Mr. **Swinburn**. You asked that I address three issues of particular interest to the subcommittee: First, the proposal to clarify that block grants are exempt from the Uniform Act; second, an assessment of how the exemption of block grants would affect the program costs where State laws significantly differ from Federal requirements; and third, our Department's role in providing relocation assistance.

The proposal to clarify that block grants are exempt from the Uniform Act "where the Federal Government has no direct responsibility with respect to specific site or project approval decisions" will not, we believe, have a large or immediate impact on DOT. Most of our programs currently require Federal project approval decisions.

In the proposed Transit Assistance Act of 1982, which the administration submitted to Congress earlier this month, we do propose that the major part of the urban mass transportation assistance program be administered under a capital formula program. Under that proposal, recipients of funds would be required to certify that they will carry out their projects in compliance with the Uniform Act. The Department would still be involved in projects through the complaint and audit process. It appears that this involvement is direct enough that the proposed capital formula program would not be removed from the Uniform Act coverage. We do need to study further the impact of S. 2363 on our proposal, however, since varying interpretations of the term "direct responsibility" could change our preliminary reading on applicability.

I should note that we do not anticipate major property acquisition or relocation efforts by transit operators over the next several years, except as necessary to complete work already begun. The Department is not providing funds for major new projects. Most property acquisition and relocation for existing systems has been completed.

The administration's proposed Airport and Airway Improvement Act of 1981, which was submitted to Congress last year, includes a recommended block grant program. Under that proposal, State governments would be authorized to receive a block grant for funding of improvements at general aviation and small air carrier airports. There would be no Federal site or project approvals under this program. The projects would be exempt from most Federal requirements. However, all applicable State requirements would still have to be fulfilled.

With respect to the Federal aid highway program, the administration has not yet submitted a 1982 bill to the Congress. We do not anticipate that we will propose a block grant approach to this program. We are considering changes in the certification acceptance process under which State highway agencies can carry out their projects with limited Federal approval, on the basis of a certification that they are complying with applicable Highway Act requirements.

Certification acceptance presently does not include the acquisition of property or relocation of displacees. Present certification acceptance procedures would not come within the proposed block grant exemption because FHWA retains involvement in specific site and project approval decisions. In fact, we would be concerned if the language in proposed section 101(C)(1) were read to include the certification acceptance program in the exemption to the Uniform Act.

While it is difficult to predict the cost implications if this were to occur, we can make the following observations. First, under existing Federal highway legislation, property acquisition and relocation assistance are considered integral parts of highway construction. Therefore, these expenditures may continue to be eligible for Federal financial assistance.

Second, some highway projects might be exempted from the provisions of the Uniform Act while others will remain under normal

Federal aid procedures. If this happens, the States may be forced to operate under different sets of procedures and regulations—one for routine Federal aid projects and one for projects under certification acceptance.

Because of these uncertainties and problems, the DOT requests that the subcommittee include, in the legislative history of this proposal, a clear statement that Federal aid highway projects carried out under the certification acceptance process are not exempt from Uniform Act requirements.

With respect to the impact on costs of varying State program requirements, let me point out that all States have legislation which implements the Uniform Act requirements. If acquisition and relocation costs remain eligible for Federal assistance under block grant and capital formula programs, we would expect most States to retain these requirements.

Several States now have statutes which provide benefits that exceed those required under the Uniform Act. Projects exempted might be expected to require a somewhat larger share of the project costs to be used for relocation housing in those States. Other States may decide to reduce the benefits which they provide. They might choose to provide reduced payments to displacees on exempted projects. Presently, we have no basis for predicting which States might change the benefits or the costs involved.

As to your third question on DOT's current role in providing relocation assistance, 85 percent of our acquisition and relocation activity involves Federal Highway Administration programs. Let me highlight our estimates of total DOT activity in fiscal year 1981.

Some 41,500 properties were acquired under our programs at a cost of $736 million. Some 5,000 families were displaced and 2,800 businesses, farms and nonprofit organizations were also displaced. Relocation costs totalled $64 million.

Although we can't quantify the benefits of the Uniform Act to the the Federal Government or to Federal programs, we do believe that the act has ensured fair and equitable treatment to the people affected by relocation activities. The proposed amendments will strengthen our ability to handle relocation problems of small businesses. Thanks to the provisions of the present act, there has been less controversy, fewer complaints and less litigation.

In conclusion, Mr. Chairman, we believe that strong and uniform relocation assistance and real property acquisition policies are of major importance to transportation programs. The proposed amendments would maintain and strengthen these policies. We look forward to working with the subcommittee to ensure prompt action on the amendments.

Thank you, Mr. Chairman.

Senator DURENBERGER. Thank you very much. Thank you also for being so responsive to our advance questions.

In my other life I was indirectly the beneficiary of an awful lot of DOT money. I represented landowners who were being condemned for highway construction, particularly the Interstate System. While driving down the interstates now, I think about them in terms of farms and homes which were moved. I recall that I was able to make a pretty good living on it, particularly because of the way that the

Government required highway right-of-ways. That is about 85 percent of the business went to litigation.

Most of the time it was being done by condemnation. That is where lawyers like me came into the act. It was very expensive to the Government. By my own observation, in many cases, it was unfair to individuals to use condemnation as much as we did.

Is that still DOT's opinion in terms of acquisition of property?

Mr. SWINBURN. I think it is our opinion that that is not the best way to acquire property. I think you are probably correct that you saw a lot of it going on in the past. Some statistics I have, if I may cite them, indicate that before the Uniform Act was put in place—I am quoting here for the period of July 1962 to December 1963—on the Interstate System alone, condemnations ran 27 percent of total acquisitions. One out of every four properties was being taken by condemnation. FHWA believes—although I don't have a detailed survey—that, for all highway work before the act, at least 15 to 20 percent of the properties were taken by condemnation. In the year after passage of the act, fiscal year 1973, a survey showed that about 10 percent of the properties were taken that way. Although reports are no longer provided on condemnations, the FHWA experts estimate that, right now, we are taking only about 5 percent of all properties through condemnation.

Senator DURENBERGER. I take it DOT would be concerned if relocation assistance was not required under some future transportation block grant program. Is that correct?

In other words, do you think DOT's ability to incorporate its current program into block grants would be hindered, in some way, by the prospect of going back to those old days and those kinds of statistics you just cited about pre-Uniform Act days?

Mr. SWINBURN. I believe, Mr. Chairman, as I said in my testimony, that we now have in place in every State the ability to implement the Uniform Relocation Act. In the absence of a Federal requirement—in the case of a block grant program, for example—the States would step in with substitutes. In many cases, they would be parallel and, probably, the same kind of condemnation rate, which we see now, would apply. I am, of course, speculating in that instance. But there has been a modicum of experience for some time on which to base such a prediction.

Senator DURENBERGER. Other than the model of the law—I am trying to get at the basis of the speculation—and also assuming that transportation programs are going to get blocked, why do you believe that it would be cost effective for State programs to adopt laws along the lines of the Uniform Act?

You are making the assumption that they will. Is that correct?

Mr. SWINBURN. I am making the assumption that they will—at least, in many cases if not most. Mr. O'Connor may want to speak to this.

My conversations with State transportation officials on this subject indicate that they very much appreciate having in place the kind of standards with which the Uniform Act gives them to work. They feel that the standards are generally fair and equitable. I have talked to a small universe of people. Extrapolating from that, most people might believe the same—that parallel programs would be put in place.

Senator **Durenberger**. Is that correct?

Mr. **O'Connor**. Just one point. If the States went to the block grant program and did not give their constituents the relocation assistance benefits, they would be in the same position as the Federal highway program was in back in the 1960's. A much larger percentage of their cases would wind up in condemnation.

Senator **Durenberger**. I understand you to be saying that the Uniform Act is fair and equitable and, by implication, a cost effective policy for transportation. But I thought I understood the HUD people who were here to say that that might not be the case for the community development programs. I am curious to know if you think the Federal Government should be providing an economic incentive for States to, in effect, differentiate between the classes of displaced persons solely because it is more economical in one case to provide relocation assistance than it might be in another case.

Again, we are getting back to what the Uniform Act ought to cover.

Mr. **Swinburn**. I need to answer that by emphasizing that we do support the concept, which is contained in the administration's amendments, of exempting block grant programs from the requirements of the act. There is a little confusion, I think, at present as to whether or not we are moving toward a "block grant" concept in our transportation programs. There may be some difference in terminology which accounts for that confusion.

I have cited one case, the Urban Mass Transit Act, which is on the Hill. While relying on certification acceptance and allowing the recipients of capital assistance to choose their capital projects, it is not what we view as a block grant program because it is quite limited. It is limited only to capital projects. As I indicated in my testimony, there is at least a preliminary belief on our part that that would not fall within the definition which is in the administration's amendments of the type of program that should be exempted. Our lawyers informed us that they want to look at this very closely before being conclusive about it.

In the highway program, we are also looking at a broadening of the certification acceptance which now exists. The same question applies. Our lawyers again cautioned me to be careful on being definitive in that regard.

We are not presently intending to move to a block grant program in the highway program. It is something that we have talked about from time to time. We are, of course, supporting the President's New Federalism approach, which would totally turn back certain highway program responsibilities to the States, as well as some of the revenues raised through the gas tax. But I don't see that as falling under what we traditionally consider a block grant because not everything would go.

Senator **Durenberger**. Did I misunderstand OMB when they were here talking about the program?

Mr. **Swinburn**. When Mr. Wright said that the highway program which we are proposing might be a block grant program, it took me somewhat by surprise. I haven't had a conversation with OMB on a highway bill for some weeks now. I am not aware if they are proposing it as a block grant program. Mr. Wright did not say that it was going to be a block grant program. He said "if it were."

Senator **Durenberger**. Let me ask you one last question which I probably also should have asked Mr. Bollinger. That is, concerning your feelings about the lead agency under this act.

Do you have an opinion as to which agency might best be the lead agency, or take on lead agency responsibilities, under the act? If so, why?

Mr. **Canny**. Mr. Chairman, generally our preference has been for a nonoperating agency—that is, one like OMB or the Justice Department—to avoid having the regulations slanted too much in the direction of one major program, either Transportation or HUD. But as to which of those agencies, such as OMB or Justice, we have no preference.

Senator **Durenberger**. That outcome is something that could be affected by changes in the act.

Do you have recommendations in that regard? Beyond the fact that you wouldn't want HUD to do it nor would HUD want you to do it—nobody would want Jim Watt to do it—[laughter]—are there some specific set of attributes, or some particular resources present, in the nonoperating agencies which make them more capable of performing lead agency functions?

Mr. **Canny**. In the case of OMB, in particular, they are, as Mr. Wright mentioned, currently looking at a number of these crosscutting requirements. I think the intergovernmental staff is particularly well equipped to deal not only with the requirements themselves, but with the various agency programs. So they may have the requisite professional skills and objectivity necessary to perform the job.

Senator **Durenberger**. Thank you very much for your testimony.

[Additional comments by the Department of Housing and Urban Development and the prepared statement of Mr. Swinburn follow:]

ADDITIONAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMENTS ON S. 2363, THE UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

The Department strongly supports S. 2363. Most of the following comments are merely explanatory and are provided as a basis for establishing the legislative history and the Department's interpretation of various policies proposed in the bill. For this reason, the Department has not commented on all of the provisions of the bill. Only with respect to Section 101(d) do the Department's comments raise the possibility of a technical change in the bill. Also attached are estimates of the bill's cost impact on HUD-assisted programs.

Section 101(d). Expanding Relocation Coverage to Residential Tenants Displaced as a Result of Rehabilitation, and Demolition or Privately-Undertaken Acquisition. The Department strongly supports this provision. However, we have two comments. First, as presently written, displacement as a result of privately-undertaken acquisition for a federally-assisted project appears to fall within the definition under subparagraph 101(6)(A) of the revised Act, thereby making those who fall within this category eligible for assistance under Section 202, 204, and 205. While this is undoubtedly a small category, we believe it is similar in cause and impact to displacement as a result of rehabilitation or demolition (not subject to Section 204) and all three categories should fall within the same subparagraph. More importantly, when private acquisition for a federally-assisted project is accompanied by rehabilitation or demolition (as it usually is), it is unclear as to whether Section 204 would apply.

Second, we believe the phrase in 101(6)(A), "as a direct result of a written notice of intent to acquire by any displacing agency," should be replaced with the term, "as a direct result of the displacing agency's acquisition of," or perhaps "as a direct result of the displacing agency's initiation of negotiations to acquire." Often, under a HUD-assisted program, acquisition will not take place if the owner objects or the owner's price is too high, and, therefore, local agencies are not required by HUD to send "notices of intent to acquire." The reference to "acquisition" in the present law provides agencies with sufficient basis for establishing an earlier trigger date by regulation.

Section 202(a)(4). Additional Payment of $10,000 to a Displaced Business to Assist It in Reestablishing at a New Site. HUD regulations already make a business eligible for such items as additional costs for licenses and permits, and also for professional services, including architect's, attorney's and engineer's fees and consultant's charges necessary for (1) planning the move of the personal property, (2) moving the personal property, or (3) installing the personal property at the replacement location. Other Federal agencies may not have the some provisions. It would be helpful if the legislative history included guidance on the intent of this payment.

Section 202(b). Removal of Statutory Limits on Moving Expense and Dislocation Allowances. This amendment would eliminate the statutory limits on the amounts of the fixed payment for residential moving expenses and the dislocation allowance and allow both payments to be established at levels consistent with the size and cost of the move.

Under existing law, persons displaced from their dwellings may elect to receive either reimbursement for moving and related expenses on an actual expense basis (Section 202(a) of the Act) or a fixed moving expense payment, determined according to a schedule established by Presidential designee, up to $300 (Section 202(b)). Those electing the fixed payment are also entitled to a $200 dislocation allowance (Section 202(b)).

The $300 ceiling is unrealistic for the relocation of large households, resulting in either inadequate and discriminatory payments, or the necessity for a person to seek reimbursement on an actual expense basis that is burdensome to both the displaced person and the displacing agency and requires the displaced person to forfeit the $200 dislocation allowance.

The $200 dislocation allowance currently is provided to all eligible displaced residents, regardless of whether they are displaced from a single-room unit in a rooming housing or from a 4-bedroom, 8-room house. This provision would establish a flexible standard varying the size of the overall allowance according to the size of the unit from which the person is displaced. For purposes of uniformity, the amount would be established by a single Presidential designee or by the applicable State, if the authority is delegated.

This amendment would result in an increase in the size of fixed payments to large households which are now limited to the $500 maximum ($300 fixed moving expense payment and $200 dislocation allowance). The size of payments to transients would probably decrease. The average payment under HUD-assisted programs would probably increase by about $100 during the first year after enactment. The proposal would result in some administrative savings by reducing the number of claims for reimbursement of actual expenses that must be documented by the displaced persons and reviewed by the displacing agency.

Section 202(c). Elimination of Eligibility of Real Property Lessor for Fixed Payment for Moving Expenses. This change would prevent a business from receiving a "fixed payment in lieu of a payment for actual moving and related expenses" in those cases where the business now qualifies as a "displaced person" solely on the basis that it leases real property to another party.

Under the Uniform Act, certain displaced businesses may choose to accept either a payment for actual moving and related expenses or a fixed payment in lieu of the payment for these expenses. The fixed payment is based on the average net annual earnings for the business over the two previous tax years. A business may own or control real property which it leases to another party. Under current eligibility criteria, the business/lessor may qualify for a fixed moving expense payment.

If the business/lessor also owns the property, the payment results in duplicate compensation because the determination of the "fair market value" to be paid for the property as compensation for its acquisition reflects the income which the owner is getting (or can get) from the property. In a case where a lessee of the property sublets it to another, that lessee/lessor also must be paid the fair market value, if any, of its leasehold interest. Consequently, any fixed payment based on net average annual earnings arising from the leasehold also would result in duplicate compensation.

It should be noted that, if this amendment is adopted, any affected business/lessor would still be entitled to receive reimbursement for the actual cost of moving any personal property which it may have stored on the real property.

Sections 203 through 206. Changing the Standard for a Replacement Dwelling from "Comparable" to "Suitable". The principal difference in these standards is that "suitability" requires adequate space for a family's needs whereas "comparability" often requires space analogous to that which the family occupied, even when that space is substantially more than needed.

The Department strongly believes that a standard related to a displaced person's actual housing needs is more rational. Application of the present comparability standard can result in excessive relocation payments and costly project delays. For example, a "comparable" replacement dwelling for a family of 3 displaced from a substandard 5-bedroom dwelling unit is a standard 5-bedroom unit. Even if there are many well-located, decent, safe and sanitary 3- and 4-bedroom units available within the person's ability to pay, and even if the maximum $15,000 replacement housing payment under Section 203 of the Act is offered, the person cannot be required to move (and the project cannot proceed) if "comparable" replacement dwellings are not available. Further, the inflexibility of the comparability standard can result in protracted arguments over matters such as the size of rooms, carports versus garages, and the composition of the exterior, thereby adding to the project-delay problem.

Within HUD, the "comparability" standard now assures more generous treatment for those displaced by a Uniform Act-covered activity than is provided to those covered by relocation requirements under non-Uniform Act Housing activities that apply the "suitable" replacement dwelling standard. (Justifiably, under basic housing assistance program rules the size of a person's unit must be consistent with the person's needs. Providing larger units to displaced persons in order to meet a "comparability standard" would therefore result in treatment inconsistent with that provided to other persons receiving housing assistance.)

This proposal would produce direct cash savings for local agencies under HUD-assisted programs. It would also produce indirect savings by enhancing the ability of a displacing agency to meet its Uniform Act obligations, thereby reducing costly project delays.

Section 203 through 206. Establishing 30 Percent of Gross Income as a Person's Ability-to-Pay for Monthly Housing Costs. For a person seeking a rental assistance payment, Section 204(a) would establish the person's ability-to-pay monthly housing costs (rent and utilities) as 30 percent of the total monthly income of all adult members of the household. Assuming this change is made, the Department would also expect to establish the 30 percent standard when implementing Sections 203, 205 and 206. For a person seeking to purchase a home, however, the monthly housing cost would be defined as the sum of the monthly mortgage payment and average monthly costs for property taxes and utilities.

Use of a 30 percent of income base is a better reflection of the percentage of income spent on housing by most families and is in line with the Omnibus Budget Reconciliation Act of 1981, which raised the ability-to-pay standard for HUD's assisted housing programs from roughly 25 percent to 30 percent.

The change in the ability-to-pay standard also would positively affect the number of dwelling units that qualify as replacement dwellings. Under the current law, a person cannot be required to move unless that person is given a reasonable choice of opportunities to move to a replacement dwelling within the person's ability to pay. Increasing the ability-to-pay standard has the effect of expanding the universe of housing which could be used for relocation. Thus, the amendment could lower project costs by reducing delays caused by a displacing agency's inability to require persons to move, in cases where delays result from the agency's inability to find replacement housing at a cost not exceeding 25 percent of the displaced person's income.

Since it is appropriate to apply this standard to all sections dealing with ability-to-pay, consideration may be given to including the 30 percent standard in the definition of suitable replacement dwelling in Section 101(10).

Section 203(a)(1)(B). Limitation on Increased Mortgage Interest Cost Payment. Section 203(a) of the Uniform Relocation Act provides for special payments to be made to displaced homeowners who owned their homes for at least 180 days prior to the initiation of negotiations for acquisition of their property. Under this section, the homeowners can receive up to a total [illegible] $15,000 for the following: (1) payment of an amount, in addition to the acquisition payment, equal to the cost of a comparable replacement dwelling; (2) payment of reasonable expenses related to obtaining the replacement dwelling (such as closing costs); and (3) amounts to cover the difference in the interest rates on the mortgages on the displacement and replacement dwellings, when the interest rate on the replacement dwelling is higher.

The current statutory formula for computing the increased mortgage interest cost (IMIC) payment under Section 203(a)(1)(B) of the Uniform Act often provides a substantial windfall to the recipient. Except in those cases where the windfall is eliminated because the $15,000 cap on the total amount of the three components is reached, the present method results in a lump sum payment large enough to enable the displaced homeowner to actually reduce his/her monthly mortgage payments.

In addition, the present computation procedure, which requires discounting the interest differential at the prevailing interest rate paid on commercial bank savings deposits in the area, requires a survey of local banks -- a step that is particularly burdensome.

A windfall under the present method for computing the payment may occur from three sources.

1. The computation procedure assumes that the earning power of money held by the displaced homeowner is the interest rate paid by commercial banks on savings deposits. In fact, the earning power of the IMIC payment is at least equal to the interest rate on the mortgage on the replacement dwelling, because the homeowner can use the lump sum IMIC payment to reduce the amount of that mortgage.

2. The procedure does not reflect the potential tax advantages to the displaced homeowner. (The homeowner receives a lump-sum, tax-free payment as reimbursement for certain future increased interest costs. However, under present law all such future interest costs may be deducted from the homeowner's income taxes.)

3. The payment generally is based on the entire remaining term of the mortgage, even though the typical mortgage does not run for the full term. If the homeowner elects to prepay the new mortgage, that portion of the IMIC payment which is attributable to future interest costs that will never be incurred is, effectively, a grant. (If an IMIC recipient obtains a mortgage and mortgage interest rates later drop significantly, he or she could refinance the replacement home at a lower interest rate. The person would not, however, have to repay any part of the IMIC payment.)

To address these windfalls, this change would provide that the IMIC payment may not exceed the sum of the increased interest costs plus other debt service costs incurred by the displaced person. It is contemplated that the payment for the increased interest costs would be the amount which, if applied to reduce the mortgage balance on the replacement dwelling, would reduce the monthly mortgage payments (principal and interest combined) on the replacement dwelling to the same level as the payment on the displacement dwelling, assuming the same term and outstanding principal balance. However, if the term of the mortgage on the replacement dwelling were shorter than the term of the mortgage on the displacement dwelling, the shorter term would be used in the payment computation. And, if the principal amount of the mortgage on the replacement dwelling were lower than the balance on the mortgage on the displacement dwelling, the computation would similarly reflect this circumstance. The foregoing formula is believed to be equitable, and the procedure for making the computations would be less complicated than the present procedure.

We cannot, however, envision any circumstances under which this formula could not be made to work, and, therefore, it is not clear to us whether the discretion granted to the lead agency in the last sentence in this provision could ever be invoked. Perhaps additional guidance can be provided or the sentence could be reworded to provide the lead agency with discretion to change the formula for good cause.

Section 204(a). Computing Rental Assistance Payments Solely on the Basis of a Person's Ability-to-Pay. Under HUD regulations implementing the Uniform Act, the lump sum rental assistance payment is 48 times the greater of: (1) the amount obtained by subtracting the person's ability-to-pay (presently 25 percent of income) from the monthly cost for rent and utilities at a replacement dwelling or (2) the amount obtained by substracting the monthly cost for rent and utilities at the displacement dwelling from the monthly cost for rent and utilities at a replacement dwelling.

Under the bill, the second part of this formula would be deleted and the payment would be computed solely on the basis of need (the first part of the formula). The resulting formula would be fair. Since low-income persons occupying unsubsidized housing tend to pay a very high proportion of their income toward housing costs, few, if any, would be affected by this change.

Under federally-assisted housing programs and also under relocation requirements that apply to some HUD-assisted programs that are not subject to the Uniform Act, assistance is presently based solely on a person's ability to pay housing costs. Therefore, this proposal, if adopted, would increase consistency of treatment given to those who receive government assistance to secure rental housing. It would also simplify computation of Uniform Act rental assistance payments. (In addition to the shorter formula, it would no longer be necessary to ascertain the person's past average monthly utility costs.)

Section 204(a) and (b). Revising Payment Standard to Reflect $3,000 Ceiling and 2-Year Housing Need. This proposal would reduce the present ceiling on Uniform Act rental assistance and downpayment assistance payments from $4,000 to $3,000 and reduce the payment computation period for rental assistance payments from 4 years to 2 years. On an annual subsidy basis, therefore, the amendment reflects an increase in the rental subsidy ceiling from $1,000 to $1,500. The increase reflects an allowance for inflation. The two-year computation basis recognizes that the Uniform Act is not an appropriate vehicle for addressing long term rental needs. These needs are better met through available assisted housing programs. (The Administration's proposed Modified Section 8 Existing Housing Program should also prove to be a substantially better tool for meeting the housing needs of low-income people than the rental assistance payment authorized by Section 204 of the Uniform Act.)

In addition, the 2-year payment computation and $3,000 payment ceiling are more compatible with efforts to extend relocation coverage and increase consistency of treatment with respect to rehabilitation programs where available program funds may be very limited and the assistance provided to tenants not displaced cannot reasonably exceed two-year protection against excessive rental increases. (The alternative to rehabilitation programs with two-year protections may be no rehabilitation with resultant building deterioration and abandonment — a much greater source of displacement than federally-assisted rehabilitation.)

Section 205(e). Administration of Jointly Funded Projects. This paragraph would authorize Federal agencies which are financing functionally or geographically related activities to designate by mutual agreement one participating agency to certify that it will ensure compliance with the Act in accordance with its procedures. Federal agencies would be authorized to accept such certifications and, upon acceptance, their responsibilities under the Act would be deemed satisfied. The precise policies and procedures to be applied to a particular project would be specified in the interagency agreement.

This agreement would simplify the administration of projects receiving assistance from two or more Federal agencies, avoid duplicative and inconsistent application of Federal standards, enhance the speed and efficiency of Federal financial assistance and make oversight of such projects much more efficient and effective.

Given the subject matter of this change, consideration should be given to including it as a change to Section 212 or 213 of the Act, rather than Section 205.

Section 206(b). Offer of Assisted Housing as Housing of Last Resort for Low- or Moderate-Income Persons. We strongly support this provision which would permit displacing agencies, who are in a last resort housing situation, to meet their basic Uniform Act obligation under Section 205(c)(3) to low- or moderate-income persons by offering them assisted housing that is otherwise "suitable replacement housing." Under this provision, of course, a displaced person, who is eligible for a replacement housing payment under Section 203 or Section 204, would retain that right and could choose such a payment in lieu of the assisted housing.

Consideration may be given to including in the legislative history an explanation of Congressional intent with respect to the right of a displaced homeowner to receive enough assistance to remain a homeowner. It may be that such a right should be asserted for all those with the possible exception of those who qualify for low-income housing assistance. The latter exception may be needed in those cases where the person to be displaced has a very low income and no replacement housing would be affordable on an ownership basis even if provided mortgage free.

Section 209. Lead Agency. It is our thought that the lead agency rules developed and promulgated under this revision would be very basic and provide displacing agencies with appropriate flexibility. In particular, Federal agencies should be free to interpret these rules and should have the flexibility to grant case-by-case waivers of any rule to the extent not prohibited by law or explicitly prohibited by the lead agency rules.

ESTIMATED COST IMPACT OF S. 2363 ON HUD-ASSISTED PROGRAMS

Section 101(6). This section would extend limited coverage to perhaps 5,000 persons displaced as a result of rehabilitation or demolition. Assuming moving expenses of $500 per case and additional help in finding relocation housing at $500 per case, total costs under this provision would be $5 million. After subtracting relocation expenses already incurred under State or local law or policy of perhaps $3 million, we estimate a net additional cost of $2 million.

Section 202(a)(4). This section authorizes $10,000 for "reasonable expenses necessary to reestablish a displaced business at its new site." It is impossible to make any accurate cost predictions as there is no definition as to what expenses would be compensable. HUD regulations already make displaced businesses eligible for certain expenses to help reestablish the business at a replacement location. Congressional guidance as to any additional costs that would be compensable would be helpful. Assuming a net average increase of $4,000, the estimated increase for our present workload of about 1,250 cases would be $5 million.

Section 202(b). This provision replaces the fixed $200 dislocation allowance and $300 maximum moving expense payment with an administratively determined allowance based on a schedule. The present average combined payment for residential occupants is $400. Assuming an average increase in this payment of $100 for an estimated 13,000 residential occupants, an increase of approximately $1.3 million would result.

Section 202(c). This provision eliminates the present two statutory eligibility tests and changes the range of payments (presently $2,500 to $10,000) to $1,000 to $20,000. Eligibility criteria will be set by a lead agency. Assuming that the criteria will be somewhat similar to the present criteria, the new higher allowance may result in an average increase of $3,000 for 1,200 payments, or $3.6 million.

Perhaps 100 persons presently eligible for this payment because they lease property to another person would lose their eligibility under this provision. Assuming an average savings of $4,000 for each such case, there would be a decrease of $.4 million. Thus, the net estimated increase for the changes to this section would be $3.2 million.

Section 203. This section replaces the "comparability" standard with a "suitability" standard. It also revises the formula for computing the amount of the increased mortgage interest cost (IMIC) component of the replacement housing payment for 180-day homeowners. While both of these changes will produce "savings" in the basic payment computation, much of these "savings" will not appear as a reduction in the actual payment, which is subject to a $15,000 cap. (For example, a reduction in the basic computation from $19,000 to 12,000 would result in a savings of $3,000 ($15,000-$12,000=$3,000).) We estimate average first year savings of $12 million (4000 cases x $3,000 savings). About $1 million of that may be attributed to the IMIC revision.

Section 204. This section replaces the "comparability" standard with a "suitability" standard. It also revises the rental assistance payment formula by limiting the period for computation of the payment to 24 months (presently 48 months), by basing payments on 30 percent of a person's gross income (presently 25 percent), by eliminating the person's prior monthly housing cost as a basis for computing a payment, and by reducing the maximum payment to $3,000 (presently $4,000). In addition, a downpayment assistance payment would be limited to the amount of the rental assistance payment.

These changes would have a substantial impact, and we estimate an average savings of $1,700 per case (present average is $3,200). Assuming 7,000 cases, this will result in a savings for both rental assistance and downpayment assistance of $11.9 million.

A small additional savings of perhaps $100,000 per year would result by restricting payments to persons who are displaced for a second time within two years of their prior displacement. The total savings are therefore estimated at $12.0 million.

Section 206(b). This last resort housing provision will permit an agency to satisfy its basic obligations through referrals to low- and moderate-income housing whenever the maximum $3,000 payment under Section 204 would not be sufficient to relocate a low- or moderate-income person. (The person would remain eligible for the $3,000 payment should he or she choose to turn down such housing offers.) This change should result in savings by accelerating projects. It would also result in some cash relocation payment savings to the displacement causing project. However, the latter savings would be offset by the cost to the low-income housing program.

Section 301. This provision would eliminate the need to obtain an appraisal for certain low value properties (e.g., easements) when the seller agrees. Assuming about 1,000 such acquisitions annually, at an average cost of $200 per appraisal, savings are estimated at $.2 million.

Administrative Cost Reductions. On balance, the revisions to the Act (particularly, replacing the comparable replacement housing standard with a suitable housing standard, simplifying payment computations and the changes to Section 206(b)) should result in administrative cost savings to both local agencies and HUD (which has oversight role) of approximately 10 percent, or $1.4 million.

First Year Cost Summary:	COST (IN $MILLIONS) Increase	Decrease
Section 101(6)	2.0	
Section 202(a)(4)	5.0	
Section 202(b)	1.3	
Section 202(c)	3.6	.4
Section 203		12.0
Section 204		12.0
Section 206(b)	-	-
Section 301		.2
Administrative Costs		1.4
	11.9	26.0

Net first year cost savings under HUD-assisted programs are therefore estimated to be about $14 million, assuming existing program coverage. This would reduce relocation costs under HUD-assisted projects from about $106 million to approximately $92 million per year. (Approximately $84 million of the $106 million is incurred under the CDBG program.)

These estimates assume continued application of the URA to block grant programs, specifically in this department to the CDBG program. We have no way of estimating what levels of assistance States and localities would provide on their own if the block grant were exempted. Some may provide greater benefits, while others may provide less.

STATEMENT OF CHARLES SWINBURN, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION, BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, CONCERNING S.2363, A BILL TO AMEND THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT, APRIL 22, 1982,

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to present the views of the Department of Transportation concerning proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The Uniform Act). The Department of Transportation has worked closely with the Office of Management and Budget and the Department of Housing and Urban Development in the preparation of the proposed amendments and we believe that S.2363, the Administration bill, will achieve significant improvements in federal and federally assisted property acquisition and relocation programs.

As a general matter, the Department recognizes that the acquisition of property for public improvement programs and the resultant displacement of families and businesses can seriously disrupt communities and interfere with business activity. While we always seek to minimize the displacement and disruption caused by our programs, some necessary transportation projects do displace a considerable number of families and businesses each year.

The Uniform Act provides important policy and operating guidance and has a strong, positive impact on our programs. Policies and procedures established by the Act assure fair and just compensation to owners of property taken for public purposes and provide equal or improved housing for displaced families and individuals. The Uniform Act reflects many initiatives that were developed by the Federal Highway Administration in its relocation assistance program during the 1960's.

We recognize that some adjustments to the Act are necessary at this time, based upon more than ten years operating experience under the present law. Several of the proposed amendments will affect the programs of other agencies to a greater extent than they will affect DOT programs. However, a number of the provisions in the amendments--such as the designation of a lead federal agency to develop a uniform set of rules for implementation of the Act--will result in needed consistency among agencies.

You asked that I address three issues of particular interest to the Subcommittee: (1) the proposal to clarify that block grants are exempt from coverage under the Uniform Act; (2) an assessment of how the exemption of block grants affects program costs where state laws significantly differ from federal requirements, and (3) our Department's role in providing relocation assistance, including the estimated number of persons displaced annually, the cost of providing such assistance and an assessment of the cost-benefit ratio to the federal government.

Exemption of Block Grant Programs

The proposal to clarify that block grants are exempt from the Uniform Act "...where the Federal Government has no direct responsibility with respect to specific site or project approval decisions..." is consistent with the Administration's efforts to reduce requirements in federal grant programs and to allow state and local governments greater discretion in the administration of these programs. This proposal will not have a large or immediate impact on DOT programs because most of our programs currently require federal project approval decisions. However, in the proposed Transit Assistance Act of 1982, which the Administration submitted to Congress earlier this month, we do propose that the major part of the Urban Mass Transportation assistance program be administered under a capital formula program.

Under our Transit proposal, recipients of capital formula funds would be required to certify that they will carry out their projects in compliance with the Uniform Act. Grant recipients would have full responsibility for implementing the Act without federal oversight. Clearly, under our proposed transit bill the Department would still be involved through the complaint and audit process in the enforcement of Uniform Act requirements. It appears that this involvement is direct enough that the proposed capital formula program would not be removed from Uniform Act coverage. However, varying interpretations of the term "direct responsibility" could change our preliminary reading on applicability. Thus, the Department needs to further study the possible impact of S.2363 on our proposed transit legislation.

As a practical matter, neither the exemption approach clarified in S.2363 nor the certification approach contained in the proposed Transit Assistance Act will have a significant impact on the Urban Mass Transportation Administration's program because we do not anticipate major property acquisition or relocation efforts by transit operators over the next several years. Except as necessary to complete work already begun, the Department is not providing funds for major new rail projects. In addition, most property acquisition and relocation for existing systems has been completed.

The Administration's proposed Airport and Airway Improvement Act of 1981, which was submitted to Congress last year, includes a recommended block grant program. Under that proposal, state governments would be authorized to receive a block grant for funding of improvements at general aviation and small air carrier airports. There would be no federal site or project approvals under this program and projects would be exempt from most federal requirements. However, all applicable state requirements would still have to be fulfilled. The proposed airport aid legislation also contains a procedure under which an airport sponsor could implement projects with limited federal approvals by certifying that they meet applicable requirements. The provisions of the Uniform Act and certain other statutes could not be handled by such a certification, however.

With respect to the Federal-Aid Highway program, the Administration has not yet submitted a 1982 bill to the Congress. Important aspects of the 1982 federal highway legislation are still under review. We do not, however, anticipate that we will propose a block grant approach for this program. We are, however, considering changes in the "certification acceptance" process, under which state highway agencies can carry out their projects with limited federal approvals, on the basis of a certification that they are complying with applicable requirements.

The certification acceptance process currently applies only to certain requirements of Title 23 pertaining to highway activities. Certification acceptance presently does not include the acquisition of property, relocation of displacee, environmental considerations or civil rights. Present certification acceptance procedures would not come within the proposed block grant exemption because certification acceptance retains FHWA involvement in specific site and project approval decisions.

Impact of Block Grant Exemption on Program Cost

As I have just suggested, we do not believe the language in Section 101(c)(1) of the proposed bill would affect federal-aid and state highway projects under the certification acceptance program. However, we would be concerned if the language in proposed Section 101(c)(1) were read to include the certification acceptance program in the exemption to the Uniform Act. While it is difficult to predict the cost implications if this were to occur, we can make the following observations:

First, under existing Federal Highway legislation, property acquisition and relocation assistance are considered integral parts of highway construction. Therefore, these expenditures may continue to be eligible for federal financial assistance. A definitive resolution of the effects of these amendments on our existing CA program require a careful legal analysis which

DOT has underway. Second, there is a further administrative and financial problem which could arise in the federal-aid highway program due to changes in the Act. Some state projects might be exempted from the provisions of the Uniform Act while others would remain under normal federal-aid procedures. If this happened, the states might be forced to operate under differing sets of procedures and regulations--one for routine federal-aid projects and one for projects under certification acceptance.

With respect to the impacts on costs of varying state program requirements, let me point out that all states have legislation which implements the Uniform Act requirements. If these costs remain eligible for federal assistance under block grant and capital formula programs, we would expect most states to retain these requirements, possibly with some modifications and possibly exempting some types of programs.

Several states now have statutes which provide benefits that exceed those required under the Uniform Act. For example, California requires much more extensive rehousing efforts than those which can ordinarily be funded under the Uniform Act. Projects exempted from the Uniform Act might be expected to require a somewhat larger share of federal transportation assistance to be used for relocation housing in California and perhaps in a number of other states. We cannot predict how the states will respond to the amendments and thus we cannot quantify the possible cost impacts.

Some other states may decide to reduce the benefits they provide and might choose to provide reduced payments to displacees on exempted projects. Again, at this time we have no basis for predicting which states might reduce benefits or the cost savings involved.

Because of these uncertainties and problems, the Department of Transportation requests that the Committee include in the legislative history of this proposal a clear statement that federal-aid highway projects carried out under the certification acceptance process are not exempt from Uniform Act requirements.

DOT's Current Role in Providing Relocation Assistance

In an effort to reduce the paperwork and reporting burdens on state and local governments, the federal government has eliminated the requirement for annual reports on acquisition and relocation activities. Consequently, we have only estimates of the number of properties acquired and persons and businesses displaced. For DOT, 85 percent of this activity involved Federal Highway Administration programs. Let me highlight these figures for FY 81.

Some 41,500 properties were acquired under our program at a cost of $736 million. Some 5,000 families were displaced; 2,800 businesses, farms and nonprofit organizations were also displaced. Relocation costs totaled $64 million.

Although we can't quantify the benefits of the Uniform Act of the Federal Government or to Federal programs, we do believe that the Act has ensured fair and equitable treatment to the people affected by relocated activities. The proposed amendments will strengthen our ability to handle relocation problems of small businesses. Thanks to the provisions of the Act, there has been less controversey, fewer complaints, and less litigation.

I should also add that in the property acquisition area, the Uniform Act has provided important safeguards against abuses which have historically been a concern in large public land acquisition programs.

Benefit Levels and Windfall Profits

In addition to the questions which you asked us to address, we would like to comment briefly on two other issues--benefit levels and the question of windfall profits. With respect to benefit levels under the Uniform Act, the Department of Transportation strongly supports the proposal to raise the limit for rental assistance payments for displaced tenants to $3,000 for a twenty-four month period. This would raise the maximum annual amount of rental assistance from $1,000 to $1,500. In recent years inflation in housing costs has resulted in an increasing number of displaced families incurring costs above the present statutory limits.

As for windfall profits to persons assisted under the Uniform Act, we believe it is important not to exaggerate the likelihood and extent of this happening. Given the magnitude of the federally assisted acquisition and relocation efforts, there will inevitably be a few cases of windfall benefits. However, our audits and program reviews lead me to conclude that abuses and windfalls under the existing program are very few and are relatively insignificant. The proposal in S.2363 to substitute the word "suitable" for "comparable" replacement dwelling requirements would eliminate one possible source of windfalls. A second source of excessive payments is in the compensation for increased interest costs required for financing the acquisition of replacement dwellings. The Federal Highway Administration has recently changed its computation methods for the interest assistance payments by regulation, thereby eliminating, we think, this source of windfall benefits. The proposed amendments to Section 203(a)(1)(B) would also address this issue. With those changes, we think that any problems of windfall benefits will be substantially removed.

In conclusion, Mr. Chairman, we believe that strong and uniform relocation assistance and real property acquisition policies are of major importance to transportation programs. The proposed amendments would maintain and strengthen these policies. We look forward to working with the Committee to ensure prompt action on the amendments.

Senator DURENBERGER. I believe the next panel is State Senator Joseph F. Timilty from the Massachusetts Legislature, representing the National Conference of State Legislatures; Mr. Jim Martin, legislative counsel for the National Governors' Association; and Mr. John Gunther, executive director of the U.S. Conference of Mayors.

We are ready for your statements. We will go in the order of introduction and start with Senator Timilty.

TESTIMONY OF JOSEPH F. TIMILTY, MASSACHUSETTS STATE SENATOR, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES; JAMES L. MARTIN, LEGISLATIVE COUNSEL, NATIONAL GOVERNORS' ASSOCIATION; AND JOHN GUNTHER, EXECUTIVE DIRECTOR, U.S. CONFERENCE OF MAYORS

Mr. TIMILTY. Thank you, Senator.

Nine years ago, the State of Massachusetts was smart enough to revise the statute and copy the act which was adopted in 1970 by the Congress. I think it was adopted in 1970 because Congress recognized that its urban renewal program, as it was working in Massachusetts, was then being known as the "Urban Federal Bulldozer" or the "Federal City Partnership in Urban Dislocation."

We, as a national conference—especially the section that I represent, the Urban Development and Redevelopment Committee—support efforts in revising the code. A way should be found that would take some of the administrative problems out of it. It would help to be consistent with the approach, which has been taken in Massachusetts and by this subcommittee, to take care of those least able of taking care of themselves.

There are several amendments to which I have been asked to direct myself. Probably, the most dangerous one that I see is the last amendment. I will start with it. This amendment exempts the block grant projects from that dislocation. That is probably the most dangerous suggestion of all the amendments.

The other amendment to which we are opposed is the one which would apply income derived from the Uniform Relocation Act to any other kind of assistance received by that person or persons. Again, it seems as though the Federal system is scraping away at the minimum price which we pay those who seem to have been, for some reason, in the path of progress.

It strikes us, who deal in urban development and redevelopment, that there is a suggestion to use "suitable" versus "comparable." Well, I don't think anyone has to be a genius to understand that this gives license to those who will decide what the terms mean, thus enabling them to come up with a less suitable dwelling for someone being dislocated. Again, this subcommittee and this Congress has, for years, assured with its Uniform Relocation Act that those who seem to have been, for some reason, in the path of progress, at least, are taken care of in some minimal way.

We support those revisions of the Uniform Relocation Act which we see as being healthy. However, we stand strongly opposed to any changes which would bring down the minimum payment for those being dislocated.

I have submitted a full statement for the record which we have approved. I stand prepared to answer any questions which the chairman may have.

Senator DURENBERGER. Thank you very much.

Your full statement will be made a part of the record.

We appreciate your testimony.

Mr. Martin?

Mr. MARTIN. Thank you, Mr. Chairman, for asking the National Governors' Association to comment on the Uniform Relocation Assistance Act. The National Governors' Association was one of the strongest supporters of the original act and continues its support for the Uniform Relocation Assistance Act.

The association also supports the thrust of the amendments proposed by the administration. The majority of them have been suggested by the States—technical amendments which will make the act more equitable and uniform in its application to specific projects.

Every State has enacted enabling legislation which makes the Uniform Act operative. You asked that we comment specifically on two issues: the act's application to block grants and the preemption of State eminent domain laws.

The American Association of State Highway and Transportation Officials will be meeting on April 26, to discuss these issues. We would like to submit their comments to you and to the subcommittee for consideration at a later date.[1]

Senator DURENBERGER. I was asked by a former county commissioner to make sure that there was time to put their comments in the record. It will be made a part of the record.

Mr. MARTIN. Thank you, Mr. Chairman.

The National Governors' Association supports amendments to the act which would address the major difficulties States are now having in implementing the act. The proposed changes in the amendments would enable the act to be operative in a more efficient and equible manner.

These changes include designation of a lead agency to ensure that a uniform Federal policy operates at the point of impact. It is my understanding that the lead agency issue is not one between Interior, HUD, Transportation, and OMB in Washington. The agency with the most significant activity at the project site would most likely be the lead agency designated for that site, so that there is only one set of procedures for each project site.

In one case it might be HUD. In other cases, it might be the Department of Transportation or Interior.

There are many needed changes. One, a designation of administrative discretion to the States to operate workable relocation programs in cooperation with local governments; two, expansion of the definitions and coverage to include any entity having eminent domain authority on persons displaced by substantial rehabilitation or demolition projects; three, increased reimbursements to reflect higher costs; four, elimination of provisions which cause duplication and excess payments; and five, changes in the definition of developments, to which displaced persons are entitled to be relocated, from "comparable" to "suitable."

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[1] See p. 144.

It is our understanding from State officials that the need for these changes is not to save money but to prevent fraud, waste, and abuse in the program. It is for that reason that we support the changes in the language.

The act should make clear that the States will continue their jurisdiction for adjudicating grievances for the benefits extended. The effective date of changes in the act should recognize that a 2-year timeframe may be needed for some States to complete legislative action.

I would like to request that the comments on these issues, which we have received from the New York Department of Transportation, also be included as part of the record.[2]

Senator DURENBERGER. Without objection, they will be included.

Mr. MARTIN. Thank you, Mr. Chairman.

The National Governors' Association generally supports the proposed change which would prohibit the preemption of State law when Federal agency acquires land within a State. This change would eliminate unnecessary duplication and would increase the uniform application of State law. State law and practice in eminent domain are based on years of proven experience and workability.

Several questions are still unanswered with regard to this proposed change. Its impact must be evaluated. The definition of what is included in "eminent domain," as well as the cost of such a change, must be clear.

Like relocation costs, costs due to Federal eminent domain actions should be borne by the initiating agency. It is our understanding that Federal court costs, due to eminent domain actions, approach $100 million a year. A policy change should not be used to shift these costs to the States. The Justice Department, Mr. Chairman, says that last year they had approximately 20,000 cases, at an average of $5,000 a case. That is where we got the $100 million figure.

Other issues are related to eminent domain procedures, such as criminal laws as well as some of the environmental laws. These questions must be clarified before there is a blanket endorsement of the eminent domain change.

Mr. Chairman, you specifically asked for our comments on the proposed amendments which would exclude block grants from the Uniform Act. You also asked that we discuss this provision in light of the principles of the New Federalism, similar crosscutting mandates and the "sorting out" process. As you know, this is an important and complex set of issues. Certainly, the people want less government intrusion in their lives and see no need for duplication, waste, and time consuming paperwork which could be eliminated.

State and local governments, last year, spent $290 billion of their own funds—exclusive of any intergovernmental transfer. This is six times the size of the Federal discretionary aid, which is about $48 billion. In this context, it is presumptious to assume that Federal law and practice are always superior to State and local law and practice. We would have to look hard for examples of Federal management practices in any categorical program which are significantly better than those now in use by most States.

If the act is considered by itself, it is easy to conclude that it should automatically apply to all block grants. If this decision were to become a precedent for all other crosscutting mandates, the impact could be serious.

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[2] See p. 72.

We should ask if the block grants are also subject to crosscutting mandates—such as endangered species, historical preservation, flood plain management, alcoholism prevention, drug treatment, and the 53 additional national policy and administrative requirements which are identified by OMB in its report of March 1980.

Sixteen block grants are referenced in the fiscal year 1983 budget. Some are new proposals and others will not become operative until October 1982. Certainly, we should allow the block grants to go into effect and be tested before we apply the 59 crosscutting requirements.

The National Governors' Association supports the policy that Federal funds should be subject to the current laws and procedures which States use to spend their own funds. A frequent and justified criticism of Federal actions is that the rules are always changing without due consideration of the different approaches which the individual States have chosen.

The association believes that each block grant should be considered on a case-by-case basis, similar to the design of the revenue sharing program. A requirement that all crosscutting Federal mandates be financed by the Federal Government would focus the decision very rapidly.

One approach may be some "boilerplate" language which would apply to block grants. Mr. Chairman, you have taken the lead in this regard. Additional hearings on this approach would be very helpful.

The Uniform Act could be worded so that it is clear that its administration and implementation would rely on comparable State and local laws for compliance, and that States are presumed to be in compliance unless challenged. If compliance is challenged, then the State shall be held to be in compliance if the State is already in compliance under any other program. Certification of compliance under this act could be issued by the lead agency for relocation assistance.

The National Governors' Association supports most of the proposed amendments which would make the act more equitable and uniform, and increase State flexibility to meet local circumstances.

The eminent domain provisions should be clearly defined in order to prevent cost-shifting and confusion with related laws. The crosscutting requirements should not be automatically applied to block grants. Instead, each block grant should be considered on a case-by-case basis. Federal mandates should be paid for by the Federal Government. And implementation of the act should rely on State law to the greatest extent possible.

Mr. Chairman, I hope these comments have been useful to the subcommittee. We will be happy to supply any additional information you may request.

Thank you.

Senator **Durnberger**. Mr. Gunther.

Mr. **Gunther**. Mr. Chairman, members of the subcommittee, thank you for the opportunity to testify today.

My name is John J. Gunther. I am the executive director of the U.S. Conference of Mayors, an organization representing the chief elected officials of America's major cities—those with populations of 30,000 or more.

The bill before you today—S. 2363, to amend the Uniform Relocation and Real Property Acquisition Policies Act of 1970—is an important proposal to modify and modernize the Nation's relocation procedures.

Since the original act's adoption, billions of Federal funds have been spent on highway construction, community development, housing development, and other activities which have required displacement of people and businesses. Because of the Uniform Act, these individuals and businesses have been afforded a minimum level of assistance to insure that they did not suffer unduly the effects of Federal actions to displace them.

The U.S. Conference of Mayors actively supported the development of the Uniform Act. We are anxious to work with your subcommittee to improve and update its provisions. However, like you, Mr. Chairman, we have certain reservations about the proposed changes in S. 2363, as drafted by the administration. Let me summarize those briefly for you today.

Coverage of the Uniform Act: We have actively supported the Uniform Act, along with the Governors and the State legislatures, back when it was originally adopted. But we have certain reservations about the changes proposed here.

The modification, proposed by S. 2363, would exempt from all coverage under the Uniform Act the so-called block grants through which the Federal Government provides funds with broad discretionary spending authority at the State and local level. The argument used to support this position is that these funds are used without direct Federal decisionmaking authority over the selection and approval of sites.

As articulated elsewhere, the administration contends that programs, like the community development block grant, have been changed so substantially in the last year that they resemble General Revenue Sharing—GRS. Thus, they should no longer be covered by the Uniform Act. I heard testimony a while ago that there has been, apparently, a modification in the administration's position. They do not consider community development block grants as General Revenue Sharing.

Until now, acquisition under CDBG was a covered activity. Local jurisdictions had the authority to extend such coverage at their option to other activities, such as rehabilitation. We certainly support the transfer of greater decisionmaking authority wherever possible to local governments. However, we differ substantially with the administration's view of the CDBG program.

Unlike GRS, the Congress has promulgated explicit national goals to be pursued with CDBG funds. The primary purpose of the act is to benefit low- and moderate-income persons through a variety of activities, including the elimination and prevention of slums and blight. GRS, on the other hand, is a general grant of funds to localities to restore fiscal balance to the Federal system.

The Housing and Community Development Act of 1974, as amended, prohibits certain activities and directs primary attention to others. GRS is a much broader grant with few restrictions and little overall national policy directions.

It is for this reason that we question the elimination of Uniform Act coverage of the provisions under CDBG. It would be naive to assume that localities will cease acquiring property or displacing individuals as a result of CDBG activities simply because the Uniform Act no longer applies.

The administration has not proposed a change in the primary purposes of the CDBG statute. Therefore, we can assume that—under the color of national, congressionally adopted goals—localities will use Federal funds in a variety of ways to carry out the national goals of the CDBG effort.

In the course of such work, some individuals will be displaced through acquisition, using Federal funds. We believe that a minimum level of benefits and due process ought to apply in such a case. This would guarantee equity in the treatment of people affected by CDBG across the country. It would assure local governments that they can look to a national, equitable standard as to the minimum level of benefits which would satisfy their obligations in cases of displacement.

Otherwise, it seems certain to us that cities will soon become embroiled in countless court cases for the purpose of determining what a suitable level of compensation is. The liability this implies for local governments is substantial. It would, we believe, have a chilling effect on community activities, and possibly work against the very goals that Congress has set out for CDBG participants to follow.

Another provision of the act would exempt from coverage all acquisitions and displacements undertaken by a public utility. The explanation from the administration is that "they . . . would strenuously object to being covered by the act." No doubt.

We find this concern a little ironic, however, in light of a recent litigation brought by the Chesapeake & Potomac Telephone Co. of Virginia in the Fourth Circuit U.S. Court of Appeals. In this case—*C. & P. Telephone Company of Virginia* v. *Landrieu*, No. 81-1602, March 25, 1982—the telephone company argued—and the appeals court upheld the argument—that the company itself was eligible for compensation as a "displaced person" under the current Uniform Act, after it was forced to relocate equipment to facilitate HUD-funded redevelopment activities in Norfolk, Va.

Mr. Chairman, public utilities cannot have it both ways. They cannot seek to collect benefits under the act and then turn around and plead for exemption as a displacing entity when their own actions would result in the displacement of other businesses or individuals.

We hope the subcommittee will consider, during its deliberations, the common law treatment of rights-of-way when addressing this question of benefits. In addition, we hope the subcommittee will take into account the agreements which such utilities sign with communities concerning rights-of-way, and the fact that many current rate schedules set by utilities explicitly take into consideration the costs of such moves.

We are currently studying the court decision mentioned above, and would like to reserve the right to submit for the record a more detailed summary of our views on this particular matter. However, we are very reluctant to endorse the administration's proposal in this regard in light of this decision. We hope you will share our reluctance. At the very least, the subcommittee should take this opportunity to act affirmatively to clarify the law on this matter to make certain that there is no question about utility companies' coverage as potential beneficiaries.

The administration has proposed expanding eligibility under the act to persons displaced by federally financed or assisted rehabilitation or demolition. This is somewhat confusing to us, since the bill also would broadly exempt from coverage the major program through which such rehabilitation and demolition takes place—for example, the CDBG program.

Also, it is unclear to us whether this provision would extend Uniform Act benefits to those displaced by rehabilitation undertaken by a private individual with the assistance of a HUD-FHA insured mortgage. If so, this will create a vast new potential universe of eligible beneficiaries.

For instance, assume a home is sold to a new owner, and tenants are residing in a basement apartment at the time of sale. The new owner undertakes a rehabilitation of the property using a federally insured mortgage, and subsequently evicts the tenants as a result of the remodeling. Would this trigger Uniform Act benefits? The Federal Government did, indeed, make a specific judgment on the site, since it issued a site specific insurance policy. Who would be liable for the relocation benefit payments? The act is too vague in this regard. We do not believe that such wholly private actions ought to be covered by the Uniform Act.

In the case of federally subsidized rehabilitation, HUD has administratively extended Uniform Act coverage to such programs in recent years. We are concerned that the Congress be explicit in the expenses which may be incurred in such relocation fees. This has had a dampening effect on such rehabilitation.

The proposed modification of the act to substitute "suitable" replacement dwelling for the current "comparable" dwelling should be a positive change to increase flexibility under the act for local governments. However, we hope that the subcommittee will stress that minimum standards should apply to the definition of "suitable" to insure that displacees are guaranteed a minimum level of habitability in their new dwellings.

What is "suitable" to one person may, to another, seem extravagant. Some better guidance in the statute could assist here. For instance, is a one-bedroom apartment suitable for a family with children? Is a studio suitable for a single elderly person being moved from a one bedroom? Obviously, the egregious examples of having to replace mansions for single person households support a change. However, some protections should be provided to insure the displacees that this change does not lead to arbitrary and unfair relocation decisions.

We do not understand the motivation or explanation for permitting a waiver of the decent, safe and sanitary provisions of the act with the approval of the displacee. Especially since the adoption of the Taft-Ellender-Wagner Act of 1949, ordering the National Government to foster the provision of a decent home in a suitable living environment for every American. The provision in S. 2363 appears to invite coercion of displaced persons to encourage them to accept less than standard dwellings. It would violate this longstanding Federal goal of trying to improve housing conditions.

The proposed changes would reduce the duration of assistance to displaced tenants from 4 to 2 years. It would increase from $1,000 per year to $1,500 per year the maximum benefits.

At the same time, the act now would permit local governments to offer section 8 housing assistance certificates to displaced tenants in lieu of other assistance payments. We support permitting the use of section 8 certificates to cover displacement costs and insure that housing costs to eligible tenants do not exceed 30 percent of their income. However, the proposed modifications could lead to substantial inequities. Section 8 certificates normally have a duration of at least 5 years, assuming the tenant remains income-eligible and stays in a qualified unit. Under the proposed modifications two tenants could wind up with very different treatment if displaced. One could receive only 2 years of benefits with a maximum yearly value of $1,500. The other could receive a minimum of 5 years of section 8 subsidies, possibly worth substantially more.

Once again, Mr. Chairman, I appreciate this opportunity to share the views of the U.S. Conference of Mayors on this important subject. We are circulating the proposal among the members of our standing committees on community development, housing, and economic development at the present time. We hope we will be permitted to submit additional comments on the proposal as we receive them from our members.

I will be happy to answer any questions you may have.

Senator **Durenberger**. Thank you very much. I want to thank all of you for your specificity.

Let me ask Mr. Martin and Senator Timilty about their reference to public utilities. They said something with which no one can disagree. People cannot have it both ways, although I understand lawyers probably are examining that opinion right now. Would it be generally the conclusion of the National Conference of State Legislatures, as well as National Governors' Association, that the exemption of utilities would be inappropriate if, in fact, they were going to be entitled in some way under this interpretation to the benefits?

Mr. **Martin**. We have not heard any comments that they should be exempt. In fact, the New York testimony, which is attached to our testimony, specifically requests the inclusion of the utilities.

Mr. **Timilty**. I would also agree. I don't think, to use the words of the gentleman on my left, that they ought to have it both ways. They ought not be exempt.

One further point. As quick as I am to agree with the gentleman on my left, I disagree with his suggestion on the difference in the terms of "suitable" and "comparable." That is a red flag, as far as I am concerned, after having seen the act carried out. The beauty is in the eye of the beholder. I wouldn't want some technocrat deciding what kind of a unit was "suitable" in his/her estimation.

Senator **Durenberger**. Let me follow up on that. It probably does not have to be a totally either/or proposition as suggested by the bill.

Suppose that the bill said "comparable housing should not be precluded if it is available; but, otherwise, suitable housing qualifies and is acceptable." Would you support that?

In other words, it might be "comparable," if available; but it would provide "suitable" if not. If we said it in the reverse—if "comparable" would include "available and comparable, otherwise suitable"—could you possibly support that?

Mr. TIMILTY. I would think not. You would give license to someone to find less than they should, to find a "comparable" housing unit. When you give them the out to decide what is "suitable," then you give a lot of license which I wouldn't be prepared to give away.

Senator DURENBERGER. I have been given the understanding that we have been providing licenses under this "comparability" for a fair amount of windfall to some individuals and at some substantial cost to State and local governments.

Jim Martin, you made some reference to it.

Mr. MARTIN. I think the issue is not the words "suitable" or "comparable," but the goal—the minimum standards criteria which Mr. Gunther mentioned.

There has been examples of windfall payments. Those need to be eliminated in order to make the program more efficient and effective.

If the word "comparable" is being used in a legal way to make windfall payments, then it should be changed. If the word "suitable" is going to be used to provide people with less housing than they had when they were relocated, it should be changed. The same goal—we just need to find the word that fits the lawyers.

Senator DURENBERGER. I don't want to end up here with three different positions on this. "Suitable replacement housing" is defined as "affordable, adequate in size to accommodate the occupants and similar to the displacement dwelling."

Is that a lousy definition of "suitable"? Is there a way to improve that definition?

Mr. TIMILTY. I think you mentioned earlier, Mr. Chairman, from where you came. It is my opinion—not having come from that kind of a background and not being a lawyer—that what I want to do——

Senator DURENBERGER. What has that got to do with the size of accommodation? That is a presumption.

Mr. TIMILTY. I have seen the act carried out. I have seen it carried out by a lot less than sensitive people. What I want to make sure is that, if a person is deprived and aggrieved, and then goes to a court of law, whoever is representing them will say to the court, "The act must be specific. It says 'comparable' and not 'suitable'." I want that to be determined in a fair way. I think, without getting into a hangup on the choice of words, there is a big difference between the two. I would like to see "comparable" rather than "suitable."

Senator DURENBERGER. Any other comments?

Jim, let me ask you a question on the subject of eminent domain. Earlier this afternoon, I was asking questions about Federal eminent domain standards and State standards. Do the Governors have a position on that section of the Uniform Relocation Act?

Mr. MARTIN. I think it is significant that OMB has withdrawn that section and will get back to you later.

We found in our surveys that there are a lot of other related questions to the eminent domain issue—criminal prosecution, departmental laws and conservation laws. This particular issue is a very large one. Our suggestion is that it not be changed until we know all of its impacts.

Senator DURENBERGER. I need to clarify, for the record, the position of the cities on the subject of block grants. We need to get some thoughts from you on some related problems.

I clearly heard you say—even though you and I both know that HUD has a CDBG exemption from the provisions of Uniform Relocation Act in mind, and that they think they are doing us a favor by introducing more flexibility into local government. I read your testimony to the effect that "more flexibility" just means being dragged into court in a lot of the cases as you go through the process.

Do you want to expand just a little bit on that part of your testimony?

Mr. GUNTHER. Yes.

Senator, it is the considered judgment of the mayors who for years have worked in our housing and community development committees—including Mayor Latimer from St. Paul—that if we are going to come to Congress and ask for funds for community development and housing programs, those people affected by displacement in the community have a legitimate right to say to the Congress, "if you are going to make these funds available, protect us, too." I don't want to be coming up here asking you to give cities funds with no standards. That is revenue sharing. We are very happy to have revenue sharing. I want it to continue forever. [Laughter.]

But we oppose trying to turn all of the programs into revenue sharing. We opposed it last year. We opposed it this year. And until the mayors change their minds we will oppose it next year.

I think it is interesting, Senator—and it hasn't happened every day in your subcommittee—that at least today, the State and local people are very much together on keeping CDBG under the Uniform Relocation Act.

Senator DURENBERGER. Let me ask you, John, another question on duration of benefits.

You are pointing out that rental assistance benefits under Uniform Relocation Act is less than the benefit under section 8. It seems to me that individuals make a choice at the time of displacement. Those who are eligible for section 8 will choose section 8, which is appropriate since they are eligible for this type of benefit under our policy. Those who are not eligible for section 8 won't have a choice. They will get the rental benefits which are provided under this act. These benefits are less than section 8, if I am reading this correctly. Is that an appropriate policy?

Mr. GUNTHER. No. I think that they confused two different sets of people. I think that is part of the problem. That is why they want to cut it back from 4 years to 2 years.

It is correct, that the people under section 8 get a longer period. I think it is appropriate for those people at that income level. But, as for these other people, I cannot quite understand why we go from the 4 years to the 2.

I believe that the increase from $1,000 per year to $1,500 is merely a recognition that the $1,000 has been there quite a while. It has been eroded by inflation.

Senator DURENBERGER. Senator Timilty, let me ask you one last question. Section 206 of the act, which is the last resort housing provision, seems to throw the act open to provide just about any amount of assistance necessary in order to speed up the completion of a project. One of the amendments in the administration's bill will allow the States to set their own statewide standards for the implementation of this provision, subject to lead agency certification. Do you see any reason why the entire act might not be implemented on this basis?

Mr. TIMILTY. If you are referring to letting the States implement it on their own at their own timetable, I would be opposed to that. We, in Massachusetts, adopted ours 2 or 3 years after the Federal Government did.

The argument made continually, at least at the general court where I belong, is that Massachusetts is first at too many things. We had some specific guidelines set down by this subcommittee as to the best length of time in which to proceed. In other words, I do not think that the States ought to be able to settle their own time limits on it.

Senator DURENBERGER. Thank you, gentlemen, very much. We appreciate your testimony.

[The prepared statements of Mr. Timilty and Mr. Martin follow:]

PREPARED STATEMENT OF STATE SENATOR JOSEPH F. TIMILTY

It is ironic that I stand here today, as a State Senator from Massachusetts, expressing doubts regarding the amendments proposed for the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Nearly nine years ago, Massachusetts modeled its own State Relocation Act after the Federal 1970 version. We felt then, and feel now, that the Federal Act, with its evident and expressed concern for the unfortunate displacee is an appropriate prototype for the state guidelines which govern Massachusetts' relocation policy. Our own measures reflect the federal assumption that the displaced person should not bear a disproportionate burden caused by a government program aimed to help the people as a whole. We have recognized the strong tie between an individual and his home and neighborhood and have worked hard to ensure that any transition made from an old to a new home runs as smoothly as possible.

Amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act have been proposed to correct administrative practices which may hinder the relocation process. Several of the proposed changes, such as the suggested creation of a single bureau to oversee the relocation process, would be effective. However, other amendments appear to lose sight of the original goal—that is, to accept full responsibility for any hardship caused by government efforts and to provide those displaced with the highest benefits available. I am therefore concerned that two of the proposed amendments may not be favorable to the displacee. (A third amendment, which I will discuss later, has the potential to inflict severe financial hardship on state governments.)

One amendment planned would permit state and local agencies to meet their replacement housing obligations by providing "suitable replacement dwellings" rather than comparable homes. This change may be helpful in eliminating bureaucratic red-tape, but may also help to eliminate the government's search for desired replacement housing. Under this amendment, the federal government is excused from an exhaustive search for comparable housing if such is not readily available. "Suitable" housing will suffice. "Suitable" housing must be sanitary, safe, decent, and accessible to all public amenities, but need not be of similar size to the vacated dwelling.

The displaced person should not be punished further. Being shoved out of one's home because of a government program and then moved into housing of a perhaps less desirable size and appearance, may be "suitable" for the government, but not for the displacee. Our own state relocation policy, which would now serve as a model for the Federal Act, does not suggest that any unit less than comparable should be found for the displaced person.

Further hardship on those displaced would be created by the amendment which reclassifies payments made by the federal government. Under this amendment, payments made to those displaced will now be considered income and held against the displacee when he/she applies for any federal benefits, such as Social Security. This is an unnecessary slap in the wallet to those who have been forced to move and have then been provided with much needed financial assistance.

Finally, I am concerned with another amendment—one which is broader in context and would have more serious repercussions. This amendment seeks to re-define the term "federal financial assistance" and in so doing places an additional economic burden on the states. Currently, displaced persons can receive appropriate funding from the federal government if they are displaced by "any grant, loan or contribution provided by the United States." The proposed amendment re-defines the federal commitment and states that the federal government will only pick up the tab in the "event that the federal government makes the project and site decisions."

This in effect means that the federal government washes its hands of any displacement problem affected by a program whose site and project plans were necessarily determined by the state or local government. In many instances, compensation for the displacee will be shifted from the federal to the state government. In Massachusetts, a state whose responsibility to the displaced person is most keenly felt, this amendment could drain significant resources from important federal programs. I fear, for example, that much of the allocated CDBG funds will be eaten away by relocation costs. Because Massachusetts has such a firm, pro-displacee and admirable relocation program, monies which would have gone into the implementation of a CDBG project must now be allotted to securing new homes for those who must be relocated.

I ask that your subcommittee re-examine the amendments proposed to the Uniform Relocation Assistance and Real Property Acquisition Policies Act and make sure that the changes suggested will not be made at the expense of those up-rooted. Cutting costs in the administration of the federal relocation process is to be congratulated, but not when it penalizes those who have already suffered unfair treatment.

National Governors' Association

Richard A. Snelling
Governor of Vermont
Chairman

Stephen B. Farber
Executive Director

TESTIMONY OF
JAMES L. MARTIN
LEGISLATIVE COUNSEL
NATIONAL GOVERNORS' ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ON THE

AMENDMENTS TO THE
UNIFORM RELOCATION ASSISTANCE
AND REAL PROPERTY ACQUISITION POLICIES
ACT OF 1970

APRIL 22, 1982

Mr. Chairman, thank you for asking the National Governors' Association to comment on the Administration's proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The National Governors' Association gave strong support to the original legislation and continues to support the Act and its purposes. The Association also supports the thrust of the amendments proposed by the Administration since the majority of them have been suggested by the states as technical amendments that would make the Act more equitable and uniform in its application to specific projects. Every state has enacted the enabling legislation that makes the Uniform Act operative.

You asked that we comment specifically on two issues: 1) the Act's application to block grants; and 2) the preemption of state eminent domain laws. The American Association of State Highway and Transportation Officials has called a specific meeting on April 26, 1982 to discuss these proposed amendments. I would like to request that the AASHTO comments as well as additional comments from individual governors be included in the hearing record.

Relocation Issues

The National Governors' Association supports amendments to the Act that would address the major difficulties states now have in implementing the Act in an efficient and equitable manner. These amendments include:

1. designation of a lead agency to insure that a uniform federal policy operates at the point of impact;
2. delegation of administrative discretion to the states to operate workable relocation programs in cooperation with local governments;
3. expansion of the definitions and coverage to include any entity having eminent domain authority, and persons displaced by substantial rehabilitation and demolition projects;
4. increased reimbursements to reflect higher costs; and

5. elimination of provisions that cause duplication and excess payments, including changing the definition of the dwelling to which displaced persons are entitled to be relocated from "comparable" to "suitable".

The Act should make clear that the states will continue their jurisdiction for adjudicating grievances for the benefits extended. The effective date of changes in the Act should recognize that a two-year time frame may be needed for some states to complete legislative action.

Mr. Chairman, I would like to request that the comments on these issues we have received from the New York State Department of Transportation also be included as part of the record.

Eminent Domain

The National Governors' Association generally supports the proposed change which would prohibit the preemption of state law when a federal agency requires land within a state. This change would eliminate unnecessary duplication and would increase the uniform application of state law. State law and practice in eminent domain are based on years of proven experience and workability.

Several questions are still unanswered with regard to the proposed change, and their impact must be evaluated. The definition of what is included in eminent domain, as well as the cost of such a change must be clear.

Like relocation costs, costs due to federal eminent domain actions should be borne by the initiating agency. It is our understanding that federal court costs due to eminent domain actions approach $100 million per year. A policy change should not be used to shift these costs to the states.

Block Grants

Mr. Chairman, you specifically asked for our comments on the proposed amendment that would exclude block grants from the Uniform Act. You also asked that we discuss this provision in light of the principles of New Federalism; similar cross-cutting mandates; and the "sorting-out" process.

As your know, Mr. Chairman, this is an important and complex set of issues. Certainly the people want less government intrusion into their lives and see no need for duplication, waste, and time consuming paperwork that could be eliminated. State and local governments spent $290 billion of their own funds, exclusive of any intergovernmental aid, in 1981. This is six times the total of federal discretionary aid.

In this context, it is presumptuous to assume that federal law and practice are always superior to state or local law and practice. We would have to look hard for examples of federal management practices in any categorical program that are significantly better than those now in use by most states.

If the Uniform Relocation Act is considered by itself, it is perhaps easier to conclude that it should automatically apply to all block grants. But if this decision were to become a precedent for all other cross-cutting mandates, the impact could be serious.

We could ask if the block grants are also subject to such cross-cutting mandates such as endangered species, historical preservation, floodplain management, alcoholism prevention, drug treatment, and the 53 additional national policy and administrative requirements identified by OMB in its report of March, 1980.

Sixteen block grants are referenced in the FY 1983 budget. Some are new proposals and others will not become operative until October, 1982. Certainly we should allow the block grants to go into effect and to be tested before we apply the 59 cross-cutting requirements.

The National Governors' Association supports the policy that federal funds should be subject to the current laws and procedures that states use to spend their own funds. A frequent and justified criticism of federal actions is that the rules are always changing without due consideration of the different approaches that the people of the individual states have chosen. The Association believes that each block grant should be considered on a case-by-case basis similar to the design of the revenue sharing program. A requirement that all cross-cutting federal mandates be financed by the federal government would focus the decision very rapidly.

One approach may be some "boiler plate" language that would apply to block grants. Mr. Chairman, you have taken the lead in this regard, and additional hearings on this approach would be very helpful. The Uniform Act could be worded so that it is clear that its administration and implementation will rely on comparable state and local law for compliance and that states are presumed to be in compliance unless challenged. If compliance is challenged, then the state shall be held to be in compliance if the state is already in compliance under any other program. Certification of compliance under this Act could be issued by the lead agency for relocation assistance.

Conclusion

The National Governors' Association supports most of the proposed amendments which would make the Act more equitable and uniform and increase state flexibility to meet local circumstances.

The eminent domain provisions should be clearly defined to prevent cost-shifting and confusion with related laws. The cross-cutting requirements should not be automatically applied to block grants. Instead each block grant should be considered on a case-by-case basis, federal mandates should be paid for by the federal government, and implementation of the Act should rely on state law to the greatest extent possible.

Mr. Chairman, I hope these comments have been useful to the Committee. We will be glad to supply any additional information you may request. Thank you.

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
William C. Hennessy, Commissioner

1220 Washington Avenue, State Campus, Albany, New York 12232

April 19, 1982

Honorable David Durenberger, Chairman
Intergovernmental Relations Subcommittee
Senate Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

We have reviewed the bill to amend the Uniform Relocation Act which you introduced upon request. While we endorse the proposal, in general, we have a number of comments for your consideration and that of the Subcommittee for possible incorporation.

We appreciate the opportunity to comment on this important proposal and hope that our remarks and recommendations will assist in improving the final legislation.

Sincerely,

W. C. HENNESSY
Commissioner

Encl.

TESTIMONY
ON THE AMENDMENTS TO
THE UNIFORM RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

SUBMITTED BY
NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
WILLIAM C. HENNESSY
COMMISSIONER

SUBMITTED TO
THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

APRIL 22, 1982

Comments by
New York State Department of Transportation

We have carefully reviewed the proposed ammendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and generally endorse the overall proposal. However, we respectfully offer the following specific comments for consideration.

TITLE I - ELIGIBILITY CRITERIA

Section 101(b) - We generally favor the expanded definition of the displacing agency to include any entity having eminent domain authority (inclusive of public utilities), and also feel that the "two tier" eligibility criterion is an improvement to the current law.

Section 101(7) - This paragraph seems to allow circumvention of the Act's provisions when the federal financial assistance is being indirectly provided by grant or through a cooperative agreement. We feel that this may provide a loophole in the law, and suggest that the wording be changed to require that the Act's provisions apply whenever there are federal monies in the project.

TITLE II - POLICIES AND PAYMENTS

Section 202(a)(4) - We favor the re-establishment payment to businesses, but question why it is being authorized for only small businesses. We suggest that the word "small" be deleted and that the payment be extended to all businesses that are required to relocate.

Actually, the vast majority of businesses that are displaced meet the definition of a "small business", and this suggestion will have a very little effect on the cost of the relocation program.

Section 202(b) - We fully concur with the implied increase in residential moving schedule.

Section 202(c) - In the past, payments "in lieu of" commercial moving expenses were provided to only those businesses that were unable to successfully relocate. The proposed revision makes this payment optional, and allows it to be made based on the desire of the displacee. Obviously, this will increase the number of applicants and increase the cost of the relocation program.

Incidentally, we like the new payment range ($1,000 to $20,000) but suggest that the law contain criteria for determining how the amount is to be established. Otherwise, we envision different agencies will have different rules and interpretations on this important point.

SECTION 202(A)(1)(B) - WHILE WE FULLY AGREE THAT THE LAW NEEDS TO BE REVISED TO ALLOW FOR A MORE EFFICIENT WAY TO COMPUTE MORTGAGE RE-FINANCING LOSSES, WE DO NOT AGREE WITH THE PRESENT PROPOSAL. SENATOR DURENBERGER'S BILL DATED JANUARY 5, 1982 REQUIRED THAT PAYMENT BE CALCULATED THROUGH A "BUY-DOWN" TECHNIQUE, AND BASED ON OUR EXPERIENCE WE FEEL THAT THIS METHOD SHOULD BE RETAINED IN THE BILL'S FINAL EDITION. THIS IS, BY FAR, THE MOST DIRECT AND EFFICIENT WAY TO HANDLE THIS PAYMENT.

SECTION 203(A)(2) - WE DISLIKE THE LAST PARAGRAPH OF THIS SECTION AS IT IMPLIES THAT A NON-DSS UNIT MAY BE CONSIDERED A SUITABLE REPLACEMENT DWELLING FOR THE PURPOSE OF MAKING PAYMENT. THIS SHOULD BE CORRECTED TO REQUIRE THAT THE PAYMENT BE MADE ONLY AFTER THE HOME IS BROUGHT UP TO DSS STANDARDS.

SECTION 203(A)- AS PRESENTED, WE DO NOT LIKE THIS REVISION. WE FEEL THAT TENANTS SHOULD BE GIVEN THE DIFFERENCE BETWEEN THE MARKET RENT OF THE ACQUIRED UNIT AND THE MARKET (OR ACTUAL) RENT OF THE REPLACEMENT UNIT. WE DO NOT FEEL THAT THE TENANT'S ABILITY TO PAY SHOULD BE CONSIDERED UNLESS THE EXISTING RENT EXCEEDS A PREDETERMINED PERCENTAGE OF INCOME (AS REQUIRED BY CURRENT LAW). AS FOR RAISING THAT PERCENTAGE FROM 25% TO 30%, WE HAVE NO PROBLEM WITH THE PROPOSAL, AND AGREE THAT IT IS PROBABLY JUSTIFIED CONSIDERING THE RECENT INCREASE IN HOUSING COSTS AS COMPARED TO OTHER LIVING EXPENSES.

BEFORE CONCLUDING OUR DISCUSSION ON THIS POINT, WE WISH TO POINT OUT THAT WE STRONGLY OPPOSE THE FEDERAL HIGHWAY ADMINISTRATION'S REQUIREMENT OF BASING THE RELOCATION PAYMENT ON ACTUAL RENT INSTEAD OF MARKET RENT WHEN THE ACTUAL RENT IS LOWER. THIS PROCEDURE HAS BEEN IN EFFECT SINCE NOVEMBER '78, AND IT CREATES A WINDFALL OF BENEFITS FOR THOSE TENANTS THAT ENJOY AN UNUSUALLY LOW RENT.

SECTION 204(B) - WE FULLY ENDORSE THIS PROVISION, AND HOPE THAT IT ELIMINATES THE DOUBLE HOUSING SUBSIDIES THAT HAVE OCCURRED SINCE THE ORIGINAL ACT WAS PASSED. WE DO WONDER, HOWEVER, WITH THE MANY AGENCIES AND PROGRAMS THAT ADMINISTER SUBSIDIES, HOW TIGHT THE CONTROLS WILL BE.

SECTION 204(C) - WE FAVOR THE PROPOSAL OF LIMITING THE DOWNPAYMENT ALLOWANCE TO THE AMOUNT REQUIRED TO RE-RENT A SUITABLE REPLACEMENT DWELLING.

SECTION 206(A) - WE ENDORSE THE EXPANDED WORDING OF THIS PROVISION AND TRUST THAT IT WILL SERVE TO PROMOTE UNIFORMITY FOR EMPLOYING LAST RESORT HOUSING BY ALL DISPLACING AGENCIES.

SECTION 206(B) - WE ALSO LIKE THE SECOND PROVISION WHICH ALLOWS THE USE OF OTHER FEDERAL LOW-INCOME HOUSING PROGRAMS TO MEET LAST RESORT HOUSING NEEDS. WE DO NOT, HOWEVER, FEEL THAT SUCH HOUSING SHOULD BE FORCED ON THE DISPLACEES UNLESS IT IS IN THE PRIVATE SECTOR, AND FULLY COMPARABLE (OR BETTER) TO THE ACQUIRED DWELLING UNIT.

SECTION 213(A)(3) - WE ARE STILL SOMEWHAT UNEASY WITH THIS PROVISION AS IT IMPLIES THAT THE NEWLY ESTABLISHED FEDERAL AGENCY WILL HAVE JURISDICTION FOR ADJUDICATING GRIEVANCES FOR THE BENEFITS EXTENDED UNDER TITLE II. WE SEE THIS AS A DEFINITE MOVE IN THE WRONG DIRECTION, AND URGE THAT THE STATES BE ALLOWED TO CONTINUE RESOLVING THESE DISPUTES. TO OUR KNOWLEDGE, THE CURRENT SYSTEM OF HANDLING APPEALS HAS WORKED VERY WELL SINCE IT WAS ESTABLISHED IN '71.

TITLE III - ACQUISITION POLICIES

SECTION 301(A) - THE LAST SENTENCE OF THIS PARAGRAPH SHOULD BE MODIFIED TO INDICATE THAT THE JUSTIFICATION OF THE APPRAISAL WILL BE PROVIDED AT THE ELECTION OF THE OWNER, NOT THE DISPLACEE. IN TENANT OCCUPIED PARCELS, THE DISPLACEE SELDOM HAS AN INTEREST IN THE PROPERTY'S FAIR MARKET VALUE.

SECTION 302 - YOU MAY WISH TO RECONSIDER THE PROVISION OF REQUIRING THE ACT TO BECOME EFFECTIVE WITHIN NINE MONTHS OF ITS ENACTMENT. WE UNDERSTAND THAT SOME STATE LEGISLATURES CONVENE ON A TWO YEAR CYCLE.

Senator DURENBERGER. Our final panel consists of two individuals who administer the provisions of the Uniform Act in the field.

Howard Armstrong works for the Oklahoma Department of Transportation as assistant chief of the right-of-way division. Howard has been very helpful to the subcommittee staff in preparing the background for this hearing and the legislation which we are considering.

Mr. Armstrong will be accompanied by Roy Holeman, of San Jose, Calif. who is a member of the relocation committee of the International Right of Way Association.

The other witness on this panel is Wilbur Hamilton, the executive director of the San Francisco Redevelopment Agency. Mr. Hamilton will be testifying on behalf of the National Association of Housing and Redevelopment Officials.

Gentlemen, we are ready for your statements. We will start with Mr. Armstrong.

TESTIMONY OF W. HOWARD ARMSTRONG, OKLAHOMA DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY ROY HOLEMAN, ON BEHALF OF THE RELOCATION COMMITTEE OF THE INTERNATIONAL RIGHT-OF-WAY ASSOCIATION; AND WILBUR HAMILTON, EXECUTIVE DIRECTOR, SAN FRANCISCO REDEVELOPMENT AGENCY, ON BEHALF OF THE NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS

Mr. ARMSTRONG. Thank you, Mr. Chairman.

As you indicated, my perspective today will be strictly from the standpoint as one who has been involved in the implementation, as well as the administration, of the programs from the State highway standpoint.

I think it is important to note that the Relocation Act is an example of federally mandated programs which have worked. The success of this law has been a result of the unique partnership which has existed between the Federal Government and the State and local governments, who have generally been responsible for the implementation of the act since 1971. Over the years, various problems have developed in not only the application of the law, but in many of the excessive administrative burdens which have developed.

The efforts of this subcommittee and those of the Office of Management and Budget in analyzing those particular impacts and in working to improve the program components and the roles of various government levels are especially appreciated. As I indicated a moment ago, the Uniform Act has met with general success. Since its passage in 1971, it has brought about a generally accepted uniform treatment of those persons who must be displaced as a result of Federal projects or projects which receive Federal financial assistance.

As with the constitutional guarantees of just compensation for the acquisition of real property, the Uniform Act extended this principle of fairness and equity to all directly affected by the programs and projects for the benefit of the public as a whole.

In addition to the monetary benefits and services provided to displaced businesses and persons, the Act has also contributed to the acceptance of these types of programs and projects which do cause displacement. Over the last several years, the level of public involvement in the approval of the particular location for a highway or a redevelopment area has dramatically increased. An overriding concern continues to be the manner which those who must be displaced are treated.

Without the assurances that have been provided by the Uniform Act and the success which has been achieved in implementation of the act, I believe the completion of many of these much needed programs and projects would have been drastically reduced. Not only do the provisions of the Uniform Act aid in the acceptance of the displacing projects, but it has significantly reduced the need for condemnation of the acquisition of property. Especially in the example of the residential owner-occupant, the level of condemnation has significantly decreased. Of course the avoidance of condemnation minimizes the inconveniences and delays caused by such proceedings.

With these thoughts in mind, I would like to single in on a couple of key issues in the amendments. The first one being that of the general overall theme behind the amendments of allowing greater State and local decisionmaking in the administration of the Uniform Act. As it has been stated today, over 90 percent of the displacements which have occurred were carried out primarily through the auspices of State and local governments and involved Federal financial assistance.

While for the sake of uniformity it is necessary to develop broad parameters to serve as a guide for relocation assistance programs, it is equally important to allow State and local governments the appropriate discretion to effectively meet the needs of those being displaced. These amendments accomplish this unique relationship by declaring the intent of Congress in mandating the promulgation of economical regulatory requirements and the delegation of substantial administrative discretion to the States.

There are those—especially at the Federal level—who argue that such a mandate to the States "will produce nonuniformity, create inequity because of differences in interpretation and implementation, and could produce greater project costs." This argument is especially interesting in that it summarizes much of the frustration we, at the State level, presently experience in dealing with many of the regulations and interpretations issued by the Federal agencies. Those of us who administer the relocation assistance programs are confronted daily with unique circumstances which require a degree of flexibility within the full scope of the law; yet it needs to be tailored to respond to the particular needs of the displacee.

There are those who misconstrue this delegation of administrative discretion to the States as totally abandoning the effort at the Federal level for uniform application of the law. On the contrary, the amendments provide the lead agency, as well as the Federal displacing agency, with the appropriate authority to insure the proper application of the law. It seems only reasonable, as recognized by the amendments, that the State and local governments who are aware of the relocation needs and the resources available should be allowed to truly administer their displacement programs. This does, indeed, create a partnership between the Federal, State, and local levels which will not only improve the quality of the relocation programs but will streamline many of the unnecessary administrative burdens which presently exist.

There is also a misnomer that such delegation of administrative discretion will allow the States to expeditiously solve relocation problems—particularly in the utilization of section 206(a) the "last resort housing" provision—by spending whatever amount of dollars it takes. These amendments respond to this assertion by requiring the equal treatment of persons in similar circumstances.

In addition, at least from a State highway standpoint, the quality of fiscal management is clearly evident by the fact that an ever-increasing share of the relocation and acquisition cost is already borne by the States. In Oklahoma, we have built several major highway projects involving 100-percent State funds. Not in one single instance have we opened up the pocketbook to solve a relocation problem in order to expedite a project. When it comes to fiscal restraint and management, the Federal Government can look to many of the States as models of how it is effectively done.

The final area I wish to discuss is that of the overall financial benefits provided by these amendments. For the most part, many of the financial benefits provided by title II have been appropriately adjusted to more accurately reflect 1982 costs.

The provision for a maximum payment of $10,000, to aid a business in reestablishing, will help to provide much needed financial assistance to a group of displacees who have long been ignored. The raising of the payment ceiling to $20,000, for those businesses who elect to receive this entitlement in lieu of actual moving cost, will greatly increase the availability of this option to many business and farm operator displacees.

The revised method of computing the mortgage interest payment will not only result in a more equitable payment to the residential owner-occupant, but will also eliminate the windfalls currently received due to high interest rates. Thereby it will immediately reduce the expenditure of several millions of dollars. Senator, I am pleased to report to you, the "Durenberger Method" of computing the mortgage interest payments has been utilized by several States. It has met with great success and has resulted in the saving of hundreds of thousands of dollars.

The amendment allowing for the computation of supplemental housing entitlements, based on "suitable replacement dwellings," will provide greater flexibility in meeting the housing needs of the owner-occupant and the tenant. The present requirement of basing such entitlements on comparable replacement housing often results in excessive housing requirements which can only be resolved by the utilization of section 206, the "last resort housing" provision. This not only increases project costs, but also adds extensive administrative burdens.

The method of computing the rent supplement entitlement for tenants may present problems which should be further analyzed. For example, the housing benefits for an owner-occupant are based on the additional cost incurred in acquiring suitable replacement housing. On the other hand, the tenant's entitlement for increased rental cost takes into consideration the tenant's ability to pay 30 percent of his/her gross monthly income for rent. Such a formula ignores other financial obligations a tenant has. It could conceivably increase the utilization of the "last resort housing" provision in order to provide housing within the tenant's financial means. For the subcommittee's consideration, I am providing possible alternative methods for the computation of the rental entitlement.

I thank you for the opportunity to present these comments. It has been my pleasure to have been of whatever assistance, in the past few months, to your subcommittee and others in the preparation of these issues.

I will be happy to answer any questions at this time or any other time.

Senator DURENBERGER. Thank you very much,

Mr. Hamilton.

Mr. HAMILTON. Thank you very much, Senator. Thank you for inviting the National Association of Housing and Redevelopment Officials (NAHRO) to testify. We know you are familiar with our association which represents many individuals and agencies who will be affected by these amendments.

We commend you, Mr. Chairman, first for your support in a number of areas that are of vital concern to our program, such as your assistance and work with respect to mortgage revenue bonds. We also want to thank you for bringing this issue of the Uniform Relocation Act to national attention at a time when the administration's notion of New Federalism is undergoing careful review. We are also quite aware of the important role of this subcommittee in influencing and shaping that New Federalism.

Like others, we have submitted a comprehensive written statement for the record. We hope that our comments today will highlight some of the very critical issues which we feel must be raised regarding any concept of change in Federal, State and local relations, particularly in the sensitive area of the national relocation policy.

We believe there ought to be a national relocation policy. We believe that it is extremely important that there be uniform treatment of people who are affected in the relocation process and are indeed displaced.

When NAHRO last addressed this subcommittee in 1979, we recommended that changes be made to the act. Our problems with the act were its inconsistencies, nonuniformity, inadequate level of payments, and resulting cost burdens to local governments. We also stated our position that problems faced in displacement of lower-income persons stemmed primarily from an inadequate supply of decent, affordable housing for low- and moderate-income persons. That problem still remains. We have noted in our written statement the positive changes in administering the act proposed in these amendments. We certainly appreciate the diligence which you and your staff have shown in making these proposals.

Unfortunately, Mr. Chairman, the more positive changes proposed are overshadowed by section 101(4) which limits the definition of Federal financial assistance to situations where the Federal Government has direct responsibility for site or project approval decisions. I must say that we are at best puzzled and, frankly, and more truthfully, frightened as to the possible rationale of excluding the generic category of Federal assistance known as block grants.

Repercussions extend from the Uniform Act to the entire concept of New Federalism. Mr. Chairman, we are aware of your personal concern with this provision and its narrowing the act's applicability so as to exclude potentially over 90 percent of those presently covered by the act. I would like to elaborate on some of NAHRO's reasons for opposing this change and cite some experiences from my own role as an executive director at the local level in the San Francisco Development Agency. We have enumerated several points of concern to NAHRO in our written statement.

One, NAHRO is concerned that changing the definition of Federal financial assistance to exclude block grants is a loud and clear signal that the Federal Government is abrogating a longstanding commitment to protect those persons who are most unable to protect themselves. That we believe to be unconscionable.

Two, the wholesale elimination or exclusion of block grants from the act's coverage will be costly. I can tell you from my experience that court claims will arise and delays will result. Let me just cite a couple of examples of direct experience from pre-Uniform Relocation Act days. In a large project in San Francisco, in an area with substantial displacement, the dispute arose over the implementation of the rehousing policy. The lawsuit was filed. HUD itself took the position that rehousing assurances were not being fulfilled. The result: Extensive delays. The project has not been closed out yet, 20 years later.

Another was a large downtown mixed-use project in the heart of San Francisco where local failure to meet minimum obligations generated a lawsuit on the rehousing issues. That resulted in a 10-year delay. That project is nearing closeout at a substantial cost.

Three, we think that there must be a nationally promulgated relocation policy. We think that a relocation policy must be uniform to afford equal treatment to all persons and businesses that are displaced. Local flexibility within national standards is possible.

Four, NAHRO firmly opposes any provision which will allow for relocation payments to be made to anyone relocating to housing which is not decent, safe, and sanitary, whatever the cause. We cannot support any policy that would allow Federal funds to be used to subsidize substandard housing. We believe this to be totally inconsistent with the statutory objectives of every piece of housing and community development legislation. Indeed, such action would create the potential for a tenant or a homeowner to be displaced from one substandard unit, subsidized in another substandard unit, then displaced again in a possible continuing cycle. Thousands of dollars in relocation assistance would thus be expended without upgrading a single housing unit or improving the displacee's housing condition.

Five, similarly the notion of suitable replacement housing as a less burdensome administrative requirement is supported by NAHRO, cautiously and within the context that there should be no infringement upon the owner's ability to secure a replacement dwelling.

We believe the subcommittee should make its intent clear on this matter by stating that, if comparable replacement housing is available, it is intended that the displaced person would still have the option of relocating to such housing. Where comparable housing is not available, suitable housing—that is decent, safe and sanitary—is a basic standard that must be used.

Six, we are disturbed that section 204(a) in the proposed amendment on replacement housing payments could unduly burden a homeowner or tenant with requiring higher payments than he or she was making before being displaced. In particular, we believe that a payment formula which requires 30 percent of a displacee's monthly income to be used for monthly housing costs regardless of the portion of his or her income the displacee has been previously paying for housing costs to be inequitable. A person displaced is not necessarily seeking Government-assisted housing—that person is being forced to move for public purposes and the cost of meeting that purpose must be borne by the public and not the displacee. While we recognize that some windfalls, and indeed some abuses have occurred because of payment calculations, we do not believe that section 204(a) is an appropriate remedy.

Seven, NAHRO strongly objects to the exclusion in section 101(3), the definition of State agency, from compliance with the Act of any entities that cause persons to be displaced. We recommend that public utilities be included, as others have stated, in the definition of a State agency in section 101(3) regardless of what is alleged to be the minimal displacement that utilities may cause.

Eight, we think section 216 on eligibility should be left as is. Relocation payments should not, in any case, be used in determining a recipient's eligibility for low-income housing assistance.

Mr. Chairman, NAHRO appreciates the opportunity to appear before the subcommittee. Again, we thank the subcommittee for bringing forth so many excellent recommendations which could simplify the administration of the act, yet still maintain its primary intent of assuring that displaced persons find adequate replacement housing.

NAHRO supports the thrust of the proposed amendments in which clarification and uniformity must be served. Although we have mainly noted our differences of opinion here, we do find for the most part that these amendments will accommodate the legitimate housing needs of displacees while, at the same time, encourage cities to pursue effective and much needed community development programs.

We, of course, will continue to offer our assistance to you and your staff in refining this bill to meet those objectives. I would be pleased to respond to any questions.

Senator DURENBERGER. Thank you very much.

Mr. Armstrong, let me start with you.

How important do you see the provision in the bill that requires the delegation of the substantial administrative discretion under the act to the States? How would the implementation of this provision reduce administrative problems for the State of Oklahoma, or would it not?

Mr. ARMSTRONG. I believe, in general, we will support the reduction of the administrative responsibility that comes with the implementation of the act at the Federal level. We also support the returning of that kind of control to the State level and the localities, simply from the standpoint that that is where the displacement is taking place.

It is hard for me to explain to someone in Washington the particular unique needs of someone being displaced from Bugtussle, Okla., or why they may have to have different needs as opposed to someone from New York City. I can speak, I think, on behalf of many people involved in the State highway departments. There is a great deal of expertise at this level, not only in recognizing the needs of the displaced, but also in utilizing the various resources which are available to us in doing so.

Many of the administrative burdens presently placed on the State and local governments, when you really look at them, really have nothing to do with the actual entitlement that goes to the displacee. It is a tremendous paperwork game of providing assurances on paper when, in fact, what you are doing is defeating that assurance through delays and increased burdens.

So I think there should be a substantial reduction of the tremendous administrative burden on the State and local governments.

Senator **Durenberger**. My impression is that the act is meant to implement housing policy as much as it is to implement relocation assistance. I understand the Department of Transportation has recently agreed, as part of the freeway project, to construct some 3,000 new housing units under the Uniform Act.

In your opinion, will the amendments proposed here alter the authority of the Transportation agencies to conduct large-scale housing projects like that?

Mr. **Armstrong**. I can find nothing in the amendments which would preclude that sort of thing from happening under the amendments. I think the important thing to realize is that the law provides, and the amendments provide, the appropriate authority to utilize the various means in order to assure people that "comparable," or "suitable" replacement housing in this case, is available. If that is certainly one of the options available, I could see nothing that would preclude that from occurring.

Senator **Durenberger**. Mr. Holeman, I assume, in your capacity as relocation specialist in the city of San Jose, you have to deal with a wide variety of Federal relocation regulations.

Have you any estimate as to how many mandates or kinds of Federal agency regulations you have to implement and what kind of administrative problems result?

Mr. **Holeman**. Under DOT, we have the highway as well as FAA and HUD. We are also working under some State jurisdictions, such as housing and community development. We have literally a bookcase full of rules and regulations from the different agencies, each one requiring something unique. It does add to our administrative costs.

Senator **Durenberger**. Let us assume that "suitable replacement housing" is defined as "affordable, adequate size to accommodate the occupants and similar to the displacement dwelling." Let us also assume that you were here when the Senator from Massachusetts and Mr. John Gunther were testifying on the subject of "comparable" and "suitable" housing entitlements. Is it your opinion that the amendments would open the way for unfair treatment of individuals under the "suitable" standard?

Mr. **Holeman**. It is—no. I believe that either "suitable" or "comparable" would work. Unfortunately, it is the interpretation at the field level which counts. We are out there looking for "comparable" or "suitable." What is the difference between "suitable" and "comparable?" I have had to argue this a number of times. It is a gray area. We really cannot define a "comparable" house any better in any mind than you can a "suitable" one.

Senator **Durenberger**. Somebody has to make a judgment at some point.

Mr. **Holeman**. That is correct.

Senator **Durenberger**. It was suggested by Mr. Gunther that we might go beyond the definition I just read to you and make assumptions that one-bedroom homes are not adequate for persons with children, and so forth. The response to that from the Senator was that it is pretty hard to write judgments like that into law. I suggested in my question—I think Mr. Hamilton said something in his—that on this issue we, at least, ought to change the bill, as proposed, to indicate that it will be "comparable if comparable is available, otherwise suitable."

Let me ask you first, Mr. Holeman, and then Mr. Hamilton, if there is something we can do to improve on the "suitable" requirement as, in effect, a backup for "comparable."

Mr. **Holeman**. If the definitions were a part of the regulation, we will go with it.

Senator **Durenberger**. Mr. Hamilton, did I quote you correctly in terms of NAHRO's position?

Mr. **Hamilton**. Yes. We believe "comparable," where available, should be made available. This should be an option of the person being displaced.

We would like to submit specific language on the definition of "suitable" to further draw that distinction because we think it can be helpful.

Senator **Durenberger**. I think that might be helpful. I was suggesting, by my questions, the direction in which we might move. If you can make us feel a little better about the direction we are going, it would be helpful.

When I talked to Minnesota's NAHRO people, I recall that their convention slogan was like many convention slogans these days—that is, "More with Less." I am going to put that kind of interpretation on some of your testimony.

I think you said that the lack of relocation assistance requirements would end up costing more money. Can you elaborate on that a little bit, or give me an example or two?

Mr. **Hamilton**. The absence of the uniform requirements, that establish clear standards, would be open to the vagaries of interpretation. Geographical biases, as expressed in those kinds of interpretations, have led in many, many instances—in our experience—to lawsuits and delays. Time is our greatest enemy in the implementation of these programs.

The more quickly, the more expeditiously we can proceed under clear guidelines with the implementing, monitoring, and the financing agencies in concert with what is required, the better able we are to complete projects on a timely basis.

Senator **Durenberger**. To what extent does this legislation adequately address the problem of lack of uniformity among Federal regulations about which I asked Mr. Holeman?

Are there improvements that we could make in the legislation on the issue of uniformity of Federal regulations?

Mr. **Hamilton**. I think there are some. I think that the amendments, as proposed, go a long way in many areas toward doing that.

We, as NAHRO staff and practitioners, have been looking at this more definitively and will have some additional ideas that we intend to submit.

You have to be careful in this area because the tighter you draw some of these things, the more you reduce, in a practical sense, the ability for reasonable flexibility in some areas. It can become counterproductive. However, there are some additional things on which we will comment.

Senator **Durenberger**. You stated that you opposed the provision in the bill which would permit relocation housing which was not decent, safe, and sanitary. Is that correct?

Mr. **Hamilton**. That is correct.

Senator **Durenberger**. The standards, of course, are important. However, the act has also caused problems as I understand from the hearings we have had over the years, where the displacing agency has insisted on relocation to DSS housing. There was a case which was brought out, back in 1979 when I was in the minority and Senator Sasser was chairing these hearings.

A fellow was a subsistence farmer who didn't care about indoor plumbing. He just wanted to relocate to another farm. The Corps of Engineers relocated him to a housing project where he ended up having a nervous breakdown.

I don't know what that has to do with indoor plumbing. It does suggest that there are differences—as the Senator from Massachusetts was suggesting—between his background and my own. I was not raised with indoor plumbing. I don't know whether he was. I can think of situations in which a person could also move into a non-DSS home for the purpose of fixing it up and improving it.

So, while I agree that the protections are needed and I agree with you in that regard, it seems to me that they ought to be set, in some way, in regulation rather than in the law. I would suggest, at least, that that might be a better way to handle this. Do you agree with that?

Mr. **Hamilton**. I would tend to agree that might be possible in very, very rare instances, Senator. However, I think that the legislative intent must be clear. If that rare, anecdotal episode occurs again, a regulatory change might be permissible.

Senator **Durenberger**. Is it your opinion that the rental housing payment formula is overly burdensome on State and local governments, with the 30-percent means test which the administration is advocating?

Mr. **Hamilton**. It tends to be a problem.

Senator **Durenberger**. Can I ask all three of you about the question we were exploring earlier regarding the lead agency? Do you have any suggestions as to how the law itself, as proposed, might be changed to get us to the most appropriate lead agency—if there is such?

Mr. **Hamilton**. I would like to comment first. I think, Senator, in your observation you are dealing here with the national housing policy as much as relocation policy. We are talking about program activity in which HUD has a vested interest or has a responsibility for. We would see the lead agency assignment of HUD as being appropriate because of that.

Mr. **Armstrong.** I would strongly support the lead agency being an agency such as OMB, simply from the standpoint that it will get you away automatically from the various viewpoints which will tend to direct the program back to one person's ideas as opposed to another's idea.

One of the things you built into the amendment—which does help out a tremendous amount—is that you have brought back together, within the lead agency, the Federal displacing agencies as well as the State and local governments to achieve this really unique uniform approach to it. I looked forward to that particular thing happening because I think only at that point can you get all the parties involved, within a single agency such as OMB.

Senator **Durenberger.** Mr. Holeman, would you like to add anything? You are now faced with conflicting opinions.

Mr. **Holeman.** I am afraid I lean toward OMB, although I have no complaints about any of the agencies with which we deal. They, in their own way, have gotten information to us very promptly. It is just that they are always different because they are different agencies. I strongly am for a strong lead agency. OMB is apparently the one that I would prefer.

Senator **Durenberger.** When I first asked this question a couple of hours ago, I qualified it by asking whether there are some special criteria which might get us to the most appropriate agency as the lead agency. We talked about the resources which were there and some particular attributes that they had.

You addressed yourself, Mr. Hamilton, to the attributes. Most people would say OMB stressed resources in terms of the skills, backgrounds and so forth. I would like to say that, if anyone has any suggestions—not to encourage us to pick the agency in the legislature—which would perhaps describe the kind of attributes that the agency ought to have, we certainly would be open to them.

[Additional comments of Mr. Armstrong and the prepared statement of Mr. Hamilton follows:]

Additional Views of W. Howard Armstrong

Section 204(a) provides for the method of computing a payment for tenants and certain others who have been in occupancy for at least 90 days prior to the initiation of negotiations for the acquisition of a dwelling. The computation method provides a payment to rent or lease a suitable replacement dwelling for a period not to exceed two years. Such payment is limited to the lesser of $3,000 or 30 percent of the displacee's gross monthly income. The inclusion of the 30 percent limit could create substantial problems especially when a displacee does not have the financial means to pay 30 percent for rent. Such a limitation would substantially increase the utilization of Section 204(a) in order to provide housing within the displacee's financial means. The amendments provide for the optional use of public housing and rental assistance programs as an alternative means to the payment method. Such an alternative would provide for a more reasonable method of providing affordable housing.

The rent supplement entitlement ought to take into consideration only the additional cost a tenant incurs in the rental of suitable replacement housing. Since most tenants displaced by projects are usually short-term occupants, perhaps the ceilings should be lowered to the difference in rent for two years and a maximum of $3,000. In addition, to offset additional windfalls which often occur, the rental entitlement should be based on the difference between the present rent or the fair market rent for the acquired dwelling, whichever is greater, and the cost of suitable replacement housing.

Another possible method is to compare the rental environment based on the residential tenant's "interest" in the acquired property. Section 204 of the present act provides the rental subsidy payment as ". . . an amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a DSS dwelling . . ." The key is "*not to* exceed four years." All displacing agencies utilize the full four years as a basis for computing the rental payment regardless of the length of occupancy by the tenant (beyond the minimum 90 days). For example: A tenant in occupancy four months prior to the offer lives in a unit renting for $150.00 per month. Comparable housing is available for $200.00 per month. The rental supplement payment would be $2,400 ($50 x 48 months). A tenant in occupancy for forty-eight months prior to the offer lives in a unit renting for $150 per month. Comparable housing is available for $200 per month. The rental supplement payment would again be $2,400. Something you may wish to consider is a rental payment based, in part, on the actual length of occupancy prior to the offer, not to exceed forty-eight months. To illustrate this by using the previous examples, the tenant in occupancy for four months would receive a rental supplement of $200 ($50 x 4 months) while the tenant in occupancy for forty-eight months would receive the full $2,400 payment.

Possible language for this revision would be: "Such payment shall consist of the amount necessary to enable such person to lease or rent a suitable replacement dwelling for a period based on the number of months in lawful occupancy prior to the initiation of negotiations to acquire the displacement dwelling not to exceed four years."

This method of computing the rental entitlement compensates the displacees fairly for their "interest" in the acquired property while it minimizes the burden on the displacing agency to subsidize the displacee for what is usually longer than the "typical tenant" would have remained in occupancy.

To further illustrate the savings of this procedure, I reviewed our rental supplement payments to 149 tenants during the last two years on an interstate project in Oklahoma City. Using the existing method of computing, we paid $1,107,355.56 for rental payments. Using the proposed method of computing based on length of occupancy we would have paid $805,914.81. This would have saved $301,440.75, of which 90% or $271,296.68 is federal funds. The savings are rather substantial, yet the principle of fairness and equity are met by fully compensating a tenant for what interest they have in the property to be acquired.

If neither of these alternatives are possible, you might consider requiring a tenant and certain others (short term owner-occupants) to be in occupancy for 180 days prior to the initiation of negotiations to acquire. This would be consistent with that required of an owner-occupant and would serve to minimize the payment of such benefits to those who attempt to remain one step ahead of the bulldozer.

As indicated in my testimony, we support the utilization of "suitable replacement dwelling" as the basis for computing the various supplemental housing benefits. The revised definition will allow more latitude in utilizing existing housing resources in meeting the actual housing needs for the displacee. While I believe the clear intent of the definition is to provide greater flexibility, it should be noted that the condition requiring such suitable dwellings be " . . . similar in type of improvement to the displacement dwelling . . . " could be interpreted to require housing in excess of actual needs.

For example, if a family were displaced from a large two story, frame, single family dwelling, a strict interpretation of this definition could require the displacing agency to make available a similar type improvement, even though other types of suitable housing (single family) are available. Such a strict interpretation could result in the continuation of many of the windfalls which occur under the present comparable method. The removal of the condition "similar in type" would in no way diminish the displacee's right to suitable replacement housing, but it would eliminate numerous administrative problems.

NAHRO
Serving the Nation's Housing and Community Development Needs

Statement of

Wilbur W. Hamilton, Vice-President for Community
Revitalization and Development

of the

National Association of Housing and Redevelopment Officials

on

S2363: Uniform Relocation Assistance and Real
Property Acquisition Policies Act

Before the

Subcommittee on Intergovernmental Relations
Committee on Intergovernmental Affairs

U.S. Senate
April 22, 1982

Mr. Chairman and members of the Subcommittee, I am Wilbur W. Hamilton, NAHRO's Vice President for Community Revitalization and Development and the Executive Director of the San Francisco Redevelopment Agency. As the representative of an association with 48 years of professional experience in administering low-income housing, rehabilitation and community revitalization and development programs, I am pleased to appear before you today to testify for NAHRO on the proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). We represent over 6000 individuals and 2000 agencies, many of whose daily professional activities will be affected by these very amendments.

NAHRO last addressed this Committee, Mr. Chairman, in November, 1979. It has now been about eight years since we first recommended that changes be made to the URA. Basically our problems with the Act were its inconsistencies in defining who was a displaced person--its nonuniformity in how to compensate individuals, its inadequate level of payments and the resulting cost burdens on local governments. We discussed other dynamics of the disinvestment-abandonment-reinvestment cycle and specifically, advocated the need to have sufficient flexibility to respond to the housing, economic, and social conditions which vary from place to place. We also stated at that time our belief that the problems faced in the displacement of lower income persons--that of finding adequate replacement housing--stemmed from an inadequate supply of decent, affordable housing for low and moderate income persons. For the record, we wish to reinforce that statement and forecast far greater problems in the near future if the funding for assisted housing continues to be inadequate.

We commend this Committee for bringing these issues to national attention once more. There are, on the whole, many provisions in this bill which could result in much more equitable and responsive treatment of those individuals whose rights to just compensation are constitutionally protected.

Unfortunately, the more positive changes embodied in most of these amendments are overshadowed by Section 101(4), which limits the definition of federal financial assistance to funding situations where the federal government has only direct responsibility for site or project approval decisions. We are at best puzzled and more truthfully, frightened, as to the rationale of excluding the generic category of federal assistance known as block grants. Clearly, there is a philosophical matter to consider here which has repercussions extending from the Uniform Act to the entire concept of "new federalism". For if the definition of "federal financial assistance" is changed to exclude block grants, then is this not a loud and clear signal that the federal government is abrogating a long-standing commitment to protect those persons who are most unable to protect themselves?

We understand that this provision of the bill could exclude over 90% of those persons currently protected by the URA. We should not retreat from a policy of helping those less fortunate who are unable to have long ago moved out of an area so blighted that its only hope for recovery is to tear it down and start anew. You have in this bill some reasonable, efficient, economically feasible alternatives on the administration of the Uniform Act. We think that barring Section 101(4), these more uniform, less costly, provisions coupled with greater flexibility for local options will serve to make the URA a much more just statute.

The issue is, in fact, broader than the Uniform Relocation Act. Here is a perfect example of how, given a slight twist, the new federalism becomes an abrogation of long-held national objectives. On a less philosophical note, there are several pragmatic reasons why we so strongly oppose removing block grants--specifically, the Community Development Block Grant program (CDBG) and code enforcement programs--from coverage. NAHRO's specific comments on this and the other provisions of S2363 are as follows.

TITLE I: GENERAL PROVISIONS

DEFINITIONS

Definition of State Agency [Sec. 101(3)]

NAHRO strongly objects to the exclusion from compliance with URA of any entities that cause persons to be displaced. We recommend that public utilities be included in the definition of a "state agency" in Section 101(3), regardless of the minimal displacement that utilities may cause. This particular exemption proposed in the Administration's bill must be circumspectly examined. Utilities have the power of eminent domain and the ability to recover their relocation costs. There can thus be no justification for their exemption as a displacing agency under this Act.

NAHRO policy has long supported extending benefits to persons and businesses involuntarily displaced by private individuals as well as other entities carrying out federally-assisted projects, and to individuals directly displaced by activities funded under the Housing and Community Development Act of 1974, that were previously covered by the URA as long as the displacement was directly caused by such actions.

Definition of Federal Financial Assistance [Sec. 101(4)]

Mr. Chairman, the proposed amendment to Section 101(4) could be a red flag as to what this Administration has in mind with its "new federalism" program. We are aware of your personal concern with this provision and its result of narrowing the URA's applicability so as to exclude over 90% of those presently covered by the URA. I would like to elaborate on our reasons for opposing this change.

First of all, until that possible time of turn-back in the new federalism proposal, the CDBG funds are still federal tax dollars. The Administration's justification for removing block grants from URA coverage is to "avoid encumbering state and local government administration of 'block grants'". Adherence to policies that reflect long-held national objectives--i.e., URA, Civil Rights, environmental protection, labor laws, employment, etc.--should not be cast as an obstacle to administrative efficiency. In the case of URA, it is the regulations and convoluted administrative requirements that have been called into question by NAHRO and others. We do not disagree with the basic premise or intent of the statute--to protect persons displaced by federally assisted programs and to provide uniform and equitable policies of land acquisition.

Mr. Chairman, under this proposed amendment a local government could purchase and clear slums with no more than a notice to the occupants of their eviction date--all this while using the CDBG program. Our experience with urban renewal taught us the injustice of this approach. Does this Administration really wish to turn back the clock that far?

Secondly, if the CDBG is to be maintained as a credible program to aid low and moderate income persons and families as Congress intended, protection of the rights of displaced individuals must be guaranteed by law. In addition to preserving the intent of the CDBG program, the Constitution provides that private property shall not be taken for public use without just compensation.

Third, the wholesale elimination of block grants from URA coverage would in the long run be far more costly in time and money because of the inevitable court claims that would arise. You need only look at the volume of litigation that has been filed in the past. We can supply you with dozens of cases our agencies have faced, creating enormous administrative and cost burdens.

Fourth, if a local government no longer must comply with URA, and it wishes to engage in revitalization activities, then it certainly must adopt relocation policies of its own. Because of the political sensitivity to and potential costs of relocation policies, councils might at best delay such action and at worst, simply cease revitalization and development efforts in which land acquisition, site clearance, and site improvements must be made--essentially all development. The termination of such activities would gut the CDBG program. In this context, we were dismayed but not surprised to find that HUD's final regulations on the state CDBG program strongly stated the Administration's negative view of URA.

The lack of uniform relocation assistance payments for local and state block grants would create enormous budget problems for public agencies. Without any clear national standard, there would be chaos. Local projects could be held up by lawsuits brought on simply by the anticipation of development in a given area. Because displacement/relocation costs comprise such a great percentage of revitalization costs and given an annual incremental shrinking of CDBG funds, fewer and fewer major revitalization activities will take place. More projects will be dictated by considerations for political expediency and relocation payments will be anything but uniform if left to every state and municipality in the country.

Definition of Displaced Persons [Sec. 101(6)]

The definition of displaced persons proposed by S. 2363 is a better and clearer definition than presently exists. NAHRO is pleased that the proposed definition is clarified to include persons "directly" displaced and that the array of HUD regulations requiring relocation assistance are consolidated. We commend the Committee for proposing a definition of displaced persons which ensures that persons are accommodated equally when displaced, regardless of the type of activity producing the displacement. This definition, by extension, should have precluded the Administration from its proposed withdrawal of coverage for the block grant program.

Since the intent of this proposed definition is to provide uniform treatment, we recommend that certain benefits--moving costs and advisory services--to persons displaced by non-acquisition activities not presently covered in the Act, be expanded to include any rehabilitation activity. To limit this coverage does not seem to be consistent with the Administration's intent to provide such uniform treatment.

Definition of Suitable Replacement Dwelling (Sec. 101(10)]

The notion of "suitable" replacement housing as a less burdensome requirement than "comparable" is supported by NAHRO within the context that there should be no infringements on an owner's ability to secure a replacement dwelling. The Subcommittee should make its intent clear by stating that if comparable replacement housing is available, it is intended that the displaced person still have the option of relocating to such housing. Where comparable housing is not available, suitable housing, that is decent, safe and sanitary, must be used.

Lead Agency Designation [Sec. 101(12)]

NAHRO has long supported the designation of an agency to establish a single uniform set of regulations and procedures for administering the URA. The existence of a uniform set of regulations is essential to assure equal treatment to persons in like circumstances, regardless of which agency is implementing the activity. Our prior testimony stated our position that in order to assure such uniform treatment that a single department should be responsible for the promulgation of regulations and be the final arbiter in instances of dispute.

We do not believe that a single department need administer the URA, in the sense of allocating funds, processing payments, and so forth. Each agency could continue to administer the URA as it does now, but would be guided by a uniform set of regulations.

The URA is a tool for assisting to provide decent, safe and sanitary housing or commercial sites to individuals or businesses, displaced by federally-funded actions. Thus, in essence, it should be a housing and community development tool, and as such, falls within the mission of the Department of Housing and Urban Development. We believe that this Department should be expected to consider the housing and community development implications in carrying out its functions under this amendment. The URA is not a means to remove people from land; it is to counsel, replace housing and offer other means of just compensation.

The largest percentage of cases affected by the URA are related to HUD-funded activities. We also recommend such an existing agency to be specified as a lead agency to avoid the confusion and costs of establishing a new entity.

TITLE II: DECLARATION OF FINDINGS AND POLICY

We think that most of the Administration's proposed language in this title is superior to that of the existing statute. We have been concerned that equal treatment is not now given to persons in like circumstances. Therefore, we would prefer that clear guidance be given as to what sufficient flexibility is given to accommodate variations in social, economic, geographic, and legal circumstances.

We commend the proposed amendments which recognize the connection between the overall housing needs of the community, the housing conditions of economically disadvantaged persons and the unique circumstances of displaced persons. The Administration states that the improvement of housing conditions shall be coordinated with existing federal, state and local government programs. Unfortunately, we must point out the poor record of the Administration in upholding its commitment to such an objective.

Moving and Related Expenses

NAHRO supports the elimination of the existing low ceiling and floor on the amount paid in-lieu-of-itemized expenses for moving and other expenses associated with relocating. While the responsibility for setting such payments is delegated to the head of the lead agency, NAHRO would like to underline the need and importance of having regulations sufficiently flexible to allow cities to tailor the level of payments to each individual situation. In some cases, an increase to a national proposed maximum level would be inappropriate.

We strongly support the increases proposed for payments in-lieu-of-itemized expenses to displaced businesses. We again find a need for the same provision suggested above that would allow for individual circumstances. We applaud the Chairman for recognizing that current benefits to businesses are inequitable and that individuals who own small businesses may suffer severe economic harm as a result of displacement.

We agree that a business whose sole transactions consist of renting to another, and who has little or nothing to move, should be excluded since there have been many abuses by such cases. For example, under the present statute absentee landlords renting substandard housing can recover cash for the property, yet still claim moving expenses even when nothing of value is being moved.

Replacement Housing for Homeowners, Tenants

First and foremost, NAHRO firmly opposes any provision which would allow for relocation payments to be made to anyone relocating to housing which is not decent, safe and sanitary, whatever the cause. We can not support any policy that would allow federal funds to be used to subsidize substandard housing. This is totally inconsistent with the statutory objectives of every piece of housing and community development legislation. NAHRO firmly stated this position when we last testified before the Subcommittee in 1979 and will continue to do so. The proposed language would create the potential for a tenant or homeowner to be displaced from one substandard unit, subsidized in another substandard unit, then displaced again, in a possible continual cycle. Thousands of dollars in relocation assistance would thus be expended without upgrading a single housing unit or improving the displacee's housing condition.

S. 2363 recognizes the need for adjusting the computation of mortgage differentials in the changed financial environment of the eighties. As long as this formula accounts for adequate compensation and does not provide over-compensation, it is a good one. Having the option for the lead agency to provide an additional computation formula when this one is not sufficient is an excellent amendment.

Another improvement needed in the URA is for changes in standards for replacement housing payments for both tenants and homeowners. We agree that these payment standards need to be updated but we believe that the proposed amendments do not provide the needed flexibility. We are disturbed that this proposed amendment could unduly burden a tenant with requiring higher payments than he(she) was making before being displaced. In particular, we believe that a payment formula which requires 30% of a displacee's monthly income to be used for monthly housing costs, regardless of the portion of his or her income the displacee previously paid for housing costs, to be inequitable. A person displaced is not necessarily seeking government assisted housing--that person is being forced to move for public purpose and the costs of meeting that purpose must be borne by the publice, not the displacee. While we recognize that some windfalls and abuses have occurred because of payment calculations, we do not believe that Section 204(a) is a remedy. At the least, this provision is inconsistent with the Administration's proposal to allow for fixed incremental increases in monthly housing costs in the federally-assisted housing programs. NAHRO objects to this provision primarily on the grounds of placing undue hardships on displaced persons.

As to the increase in replacement housing payments, NAHRO continues to believe that because of the absence of useful data, particularly on increases in rental housing costs, and the wide range of such costs among cities, a fixed standard or ceiling creates inequities. NAHRO believes that the replacement housing payment costs should be increased, but prefers different levels be applicable in different SMSAs. We have recommended in the past that the agency responsible for overall administration of the URA establish a schedule of maximum differential payments based on a prescribed set of economic indicators, similar to the procedures used to develop fair market rents for the Section 8 housing assistance program, and that this schedule be revised annually. We believe that this is the only means of meeting the needs of displacees in different communities in a fair and equitable fashion.

We are pleased that Section 204(b) allows persons otherwise eligible for federally administered or assisted low-income housing assistance programs to have the option to receive such housing assistance where it is available. However, we wish to make it clear that we do not feel that these payments should be considered as income counting toward eligibility for such housing assistance programs.

Relocation Assistance Coordination and Advisory Services

We think that Section 205(a) requiring the Secretary of the Department of Housing and Urban Development to assign a high priority for assistance to persons who choose to receive public housing instead of a cash payment is consistent with long-standing NAHRO policy. We applaud this section for ensuring better coordination of governmental programs.

Housing Replacement by Federal Agency as Last Resort

We appreciate the fine work of the Committee to ensure that inequities will be eliminated by requiring a minimum federal standard. Because the URA covers displacement caused by federally assisted actions and most often it is a local agency involved in paying relocation costs, NAHRO does not support the establishment of state standards for last resort housing. The last resort payment standards must remain flexible for the needs that vary from city to city. Unless there is a direct state involvement in an activity producing displacement, NAHRO feels that the federal-local involvement is a more equitable and efficient one.

Eligibility

We think Sec. 216 should be left as is. Relocation payments should not be used in determining a recipient's eligibility for low income housing assistance.

Transfer of Surplus Property

We endorse provision Sec. 218, that authorizes the states to pay GSA only the net amount of sale after the state disposes of surplus property, thus compensating a state for the costs of marketing such property.

Repeals

A lead agency charged with promulgating regulations should be required to report on its activities concerning relocation assistance. Data needed to produce such a report should be routinely collected for monitoring and evaluation purposes.

TITLE III: UNIFORM REAL PROPERTY ACQUISITION POLICY

We support the provision which allows the head of the displacing agency to forego an appraisal where the acquisition of such property is a donation, or is a voluntary sale with a selling price of under $700. The provision requiring appraisal justification protects the rights of the owner yet also allows the agency to avoid having to provide an appraisal where the value of the property is so low as to make the appraisal uneconomical.

NAHRO appreciates the opportunity to appear before the Subcommittee today. We again thank the Committee and its staff for bringing forth so many recommendations that simplify the administration of the URA, yet still maintain its primary intent of assuring that displaced persons find adequate replacement housing. We are aware of the role of this Committee in designing the Congressional proposals on the "new federalism". We hope that our comments here illustrate the light in which a seemingly more rational shift to greater state and local roles can be costly, not only financially, but in terms of abridging the protected rights of individuals.

NAHRO supports the thrust of proposed amendments in which clarification and uniformity have been served. Although we have mainly noted our differences of opinion here, we find, for the most part, that these amendments will accommodate legitimate housing needs of displacees while at the same time, encourage cities to pursue effective community development programs. We continue to offer our assistance to you and your staff in refining the bill to insure that its objectives are met. I appreciate the opportunity to present our views before you and would be happy to answer your questions. Thank you.

Senator **Durenberger**. Unless any of you have any other comments that you want to make, I will express my appreciation to you and all of the witnesses. This concludes the hearing.

[Whereupon, at 4:10 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

[From the Congressional Record, April 13, 1982]

SENATOR DURENBERGER'S INTRODUCTION OF S. 2363

Mr. President, it gives me great pleasure to introduce, by request of the Director of the Office of Management and Budget a long-overdue bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

These amendments are the result of 9 months of close collaboration between the Subcommittee on Intergovernmental Relations and OMB's Intergovernmental Affairs Division. They represent the first effort under President Reagan's administration to implement a comprehensive reform of a complex, crosscutting Federal mandate, and I am especially pleased to be a part of this process. Accordingly, even though there are several points in this bill over which the administration and I disagree—so strongly, in fact, that I plan to introduce amendments in committee to resolve these issues—I greatly commend the overall thrust of this legislation to introduce a more rational concept of federalism into the implementation of an important Federal policy.

PURPOSE

The Uniform Act, which this legislation would amend, is based on the constitutional principle that persons who have their property taken by Government under the power of eminent domain are entitled to "just compensation." It establishes a uniform policy for all Federal agencies, specifying basic acquisition procedures and minimum levels of compensation, whenever a person is displaced by a Federal, or federally assisted, program. Particularly, the act updates just compensation to include moving and other expenses associated with moving to a replacement dwelling. In so doing, it broadens the protection afforded individuals from having to bear a disproportionate share of the cost of Federal programs designed to benefit the public as a whole.

However, while the constitutional roots of these protections accord a strong Federal purpose to the Uniform Act, it has, in its implementation, reflected much that is wrong with our Federal system. Because well over 90 percent of all federally funded programs which result in displacement are grants-in-aid, it largely falls upon State and local agencies to administer the act's provisions. Yet the act allows each of the 16 Federal departments and agencies whose programs are subject to the act to promulgate different regulatory requirements. It provides little or no flexibility to allow a matching of the individual's needs with the resources and goals of communities. It regularly results in unintended windfalls to some, while excluding others entirely. So even while the act symbolizes the Federal responsibility to insure that Government policies are carried out fairly and equitably, it has also come to be synonymous with popular characterizations of unresponsive and inefficient, Big Government.

EFFECT OF AMENDMENTS

The Uniform Relocation Act Amendments of 1982 comprehensively address each of these problems, for the most part, in a constructive manner. Key goals of the legislation include reducing Federal intrusions and burdens on State and local governments; broadening the act's coverage to include other legitimate classes of displaced persons; raising moving ceilings to compensate for inflation; and eliminating windfalls, program duplications, and abuses in the implementation process. However, the administration would accomplish these reforms while so drastically narrowing the act's applicability as a condition of Federal financial assistance that, according to the Advisory Commission on Intergovernmental

Relations, only a handful of GSA, Interior and Defense programs would remain covered. I greatly oppose this narrowing, and plan to do all that I can to insure that such an approach does not succeed.

Chief among the administration's initiatives to narrow the act is a provision that would limit coverage to persons displaced by programs where the Federal Government has direct responsibility with respect to specific site or project approval decisions. This definition is thought by some in the Federal Highway Administration to exclude not only all block grants, but most of the Federal highway program as well. Thus, if enacted in its present form, the administration's bill could exclude over 90 percent of those persons currently covered under Uniform Act protections.

In addition, the administration intends to exclude from Uniform Act protections all persons displaced by Federal code enforcement programs. This exclusion appears to be based on a distinction between displacement that is the result of condemnation for a public purpose under code enforcement, as opposed to under right-of-way powers. If this is the case, I do not agree. Where two different program activities produce the same result—displacement—it is only fair that there be similar protections afforded the individuals affected.

The philosophy of New Federalism underlying the administration's approach to these amendments is both understandable and arguable. Essentially, it reflects the belief that the Federal Government should play a limited role in encumbering the decisions of State and local governments. Although I support this general proposition, I would not advocate its extension to our basic constitutional protections, such as the principle of "just compensation." Nor would I apply it to those Federal statutes designed to update and expand upon such principles.

More positively, I would assert that even in the absence of those narrowing aspects which I oppose, the New Federalism agenda would be largely implemented by these amendments. For example, State and local decisionmaking will be significantly enhanced. Federal intrusions and administrative burdens will be minimized. Even the costs associated with any expanded coverage sought by these amendments will be balanced by the savings created in the area of reduced windfalls and redefined entitlements. In short, the sound management principles incorporated in this legislation are fundamentally consistent with President Reagan's mandate to improve the responsiveness and efficiency of the Federal Government.

Mr. President, we have before us a golden opportunity to significantly improve upon an important Federal law that restrains the actions not of individuals, or the private sector, but Government. Americans have the right to feel confident in the good intentions of their Government. I can only hope that in debating the Federal purpose in securing this right, we do not lose sight of the fact that the matter has already been settled. The Constitution requires that people receive "just compensation."

97TH CONGRESS
2D SESSION

S. 2363

To amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1982

Mr. DURENBERGER (by request) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982".

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. (a) Section 101(1) (42 U.S.C. 4601(1)) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act is amended by deletion of the following two phrases: "(except the National Capital Housing Authority)" and "(except the District of Columbia Redevelopment Land Agency)".

(b) Section 101(3) of such Act (42 U.S.C. 4601(3)) is amended to read as follows:

"(3) The term 'State agency' means any entity which has eminent domain authority under State law, except public utilities, and except where State statute specifically provides that a private entity shall not be subject to the provisions of this Act.".

(c) Section 101(4) of such Act (42 U.S.C. 4601(4)) is amended—

(1) by inserting after the phrase "United States" the following: "except where the Federal Government has no direct responsibility with respect to specific site or project approval decisions and,"; and

(2) by inserting a comma after "insurance" and inserting "or mortgage interest subsidy to a person".

(d) Section 101(6) of such Act (42 U.S.C. 4601(6)) is amended to read as follows:

"(6) The term 'displaced person' means—

"(A) any person who moves from real property, moves personal property from real property, or moves a business or farm operation, as a direct result of a written notice of intent to acquire by any displacing agency such real property for a program or project undertaken by a Federal agency, or with Federal financial assistance; or

"(B) solely for the purpose of subsections (a) and (b) of section 202, and section 205, any person who moves from real property or moves personal property from real property—

"(i) as a direct result of the written order of any displacing agency to vacate other real property, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency, or with Federal financial assistance;

"(ii) as a direct result of substantial rehabilitation or demolition for a program or project undertaken by a Federal agency, or with Federal financial assistance.".

(e) Section 101 of such Act (42 U.S.C. 4601) is amended by adding at the end thereof the following new subsections:

"(10) The term 'suitable replacement dwelling' means any dwelling that is decent, safe, and sanitary; adequate in size to accommodate the occupants; affordable; in an area not subject to unreasonable adverse environmental conditions; similar in type of improvement to the displacement dwelling;

in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, or the displaced person's place of employment; and is available on the private market, unless the person is receiving public assistance for housing.

"(11) The term 'displacing agency' means any Federal agency, State, State agency, or person furnished Federal financial assistance which causes a person to be a displaced person.

"(12) The term 'lead agency' means the Cabinet-level department, agency, or other entity designated by the President to coordinate implementation of the Uniform Act under section 213 of this Act.".

TITLE II—UNIFORM RELOCATION ASSISTANCE

DECLARATION OF FINDINGS AND POLICY

SEC. 201. Section 201 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621) is amended to read as follows:

"DECLARATION OF FINDINGS AND POLICY

"SEC. 201. (a) The Congress finds and declares that—

"(1) displacement as a direct result of programs or projects undertaken by a Federal agency, or with Federal financial assistance, is caused by a number of activities, including rehabilitation, demolition, and acquisition;

"(2) displacement occurs in a variety of social, economic, geographic, and legal circumstances; relocation assistance policies must provide for sufficient flexibility to assure fair, uniform, and equitable treatment of all affected persons; and

"(3) the displacement of businesses often results in their closure; minimizing the adverse impact of displacement of businesses is essential to maintaining the economic and social well-being of communities.

"(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency, or with Federal financial assistance, in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. It is the intent of Congress that—

"(1) the primary purpose of this title is to minimize the hardship of displacement on persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance;

"(2) Federal agencies shall carry out this law in a manner which minimizes waste, fraud, and mismanagement;

"(3) the administration of this Act shall, to the maximum extent feasible, minimize unnecessary administrative and program costs borne by States and State agencies through the promulgation of economical regulatory requirements, and the delegation of substantial administrative discretion to the States;

"(4) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act;

"(5) for the purpose of determining the unique circumstances of a displaced person, the goals of the displacing agency, the unique resources at its disposal for administering relocation assistance, the overall housing and other needs of the community, and the preferences and needs of the displaced person shall be taken into account as appropriate; and

"(6) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals.".

MOVING AND RELATED EXPENSES

SEC. 202. (a) Section 202(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622(a)) is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—";

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(4) actual reasonable expenses necessary to reestablish a displaced business at its new site, but not to exceed $10,000.".

(b) Section 202(b) of such Act (42 U.S.C. 4622(b)) is amended by striking out all that follows "may receive" and inserting in lieu thereof "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.".

(c) Section 202(c) of such Act (42 U.S.C. 4622(c)) is amended to read as follows:

"(c) Any displaced person eligible for payments under subsection (a) who is displaced from the person's place of business or farm operation, and who is eligible under criteria established by the head of the lead agency, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a). Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 nor more than $20,000. A business shall qualify as a business under section 101(7) of this Act on grounds other than its rental to another person of any part of the real property.".

REPLACEMENT HOUSING FOR HOMEOWNER

SEC. 203. Section 203(a) of the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)) is amended—

(1) by striking out "comparable" and all that follows through "market" in paragraph (1)(A) and inserting in lieu thereof "suitable replacement dwelling";

(2) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) The amount, if any, which, if applied to reduce the mortgage balance on the replacement dwelling, would reduce the principal and interest combined on the replacement dwelling to the same level as the payment on the displacement dwelling, assuming the same term and outstanding principal balance. Notwithstanding, if the term of the mortgage on the replacement dwelling were shorter than the term of the mortgage on the displacement dwelling, the shorter term would be used in the payment computation, and if the principal amount of the mortgage on the replacement dwelling is lower than the balance of the mortgage on the displacment dwelling, the computation shall similarly reflect the lower of the two amounts. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. If, for any reason, such payment cannot be computed according to the method prescribed in this section, the head of the lead agency shall authorize the use of another method of computation."; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205(c)(3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a suitable replacement dwelling within one year of such date. With the consent of the displaced person, the head of the displacing agency may waive the requirement that a suitable replacement dwelling be decent, safe, and sanitary for good cause, due to the unique circumstances of the displaced person.".

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

SEC. 204. Section 204 for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended to read as follows:

"REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

"SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of the displacing agency shall make a payment to or for any displaced person displaced from any dwelling unit not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling, or, where displacement is not caused by acquisition, any other event which the head of the lead agency may prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed two years, a suitable replacement dwelling. For the purpose of this subsection the amount referred to shall equal the lesser of (A) $3,000 or (B) twenty-four times the amount obtained by subtracting from the monthly housing costs for a replacement dwelling 30 per centum of the displaced person's gross monthly income. For the purpose of the preceding sentence, the term 'gross monthly income' means the total monthly income of all adult members of the household, including, though not limited to, supplemental income payments from public agencies.

"(b) Any displaced person eligible for payments under subsection (a) may elect to receive in lieu thereof either Federal low-income housing assistance or similar State or local governmental assistance if such assistance is available at the time of displacement and such person is otherwise eligible for such assistance. The failure of any such person to make such an election shall be taken into account when evaluating the eligibility of such person for any Federal or federally assisted low-income housing assistance program during the two years following the date on which such person received the payment authorized under subsection (a) of this section.

"(c) Any person eligible for a payment under subsection (a) may elect to apply such payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a suitable replacement dwelling if such person does not receive other governmental financial assistance toward such purchase. Notwithstanding, a displaced homeowner who has occupied the displacement dwelling for at least ninety days but not more than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling shall, at the discretion of the head of the displacing agency, be eligible for the maximum payment allowed under this subsection, provided that such payment shall not exceed the payment such person would otherwise have received under section 203(a) of this Act had the person occupied the displacement dwelling for one hundred and eighty days prior to the initiation of such negotiations.

"(d) With the consent of the displaced person, the head of the displacing agency may waive the requirement that a suitable replacement dwelling be decent, safe, and sanitary for good cause. No payment shall be made under this section to any person (i) who is determined by the head of the displacing agency, according to criteria established by the head of the lead agency, to have occupied the displacement dwelling principally for the purpose of obtaining assistance under this title, or (ii) who has been a displaced person for the purposes of this section during the two years preceding displacement, except that the head of the displacing agency may waive this requirement for good cause.".

RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

SEC. 205. Section 205 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4625) is amended to read as follows:

"RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

"SEC. 205. (a) The head of any displacing agency shall assure that the relocation assistance advisory services described in subsection (c) are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

"(b) The Secretary of Housing and Urban Development shall assign a high priority for assistance under the programs referred to in sections 204(b) and 206(b) of this Act to persons eligible under such section. To the extent practicable, the Secretary shall also require that federally assisted State and local governmental low-income housing assistance programs assign priority for assistance to such persons. To the extent practicable, the Administrator of the Small Business Administration and the heads of other Federal agencies administering programs which may be of assistance to displaced persons shall make available technical assistance under subsection (c)(5) and expedite the applications for such assistance by such persons.

"(c) Each relocation assistance advisory program required by subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order to—

"(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

"(2) provide current and continuing information about sales prices and rental charges on suitable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

"(3) assure that no person will be required to move from the person's dwelling unless the person has been given a reasonable choice of opportunities to move to a suitable replacement dwelling;

"(4) assist a person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location;

"(5) supply information concerning other Federal programs which may be of assistance to displaced persons, and technical assistance to such persons in applying for assistance under such programs; and

"(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

"(d) The head of any displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

"(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency or displacing agencies other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may by agreement designate one such agency as the cognizant Federal agency whose procedures shall be utilized to implement the activities. If such agreement cannot be reached, then the head of the lead agency shall designate one such agency as the cognizant agency. Such related activities constitute a single program or project for purposes of this Act.".

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

SEC. 206. Section 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4626) is amended to read as follows:

"HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

"SEC. 206. (a) If a program or project undertaken by a Federal agency, or with Federal financial assistance, cannot proceed on a timely basis because suitable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The States may enact statewide standards for the implementation of this section: *Provided,* That such standards assure that persons in essentially similar circumstances receive equal treatment under this Act. The head of the lead agency shall certify that such statewide standard is in accord with the policy of this Act. In the event that a State does not enact such standards, the head of the lead agency shall require that this section may be used to exceed the payment ceilings established in sections 203 and 204 only on a case-by-case basis, for good cause.

"(b) Whenever housing replacement as a last resort will result in the provision of housing for persons who are otherwise eligible for low-income housing assistance, the requirement that the displacing agency provide suitable replacement housing may be met through the provision of low-income housing assistance by a program or project undertaken by a Federal agency, or with Federal financial assistance.".

FEDERAL SHARE OF COSTS

SEC. 207. (a) Section 211(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4631(a)) is amended to read as follows:

"(a) The cost to a displacing agency of providing payments and assistance pursuant to titles II and III shall be included as part of the cost of a program or project undertaken by a Federal agency, or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program costs.".

(b) Section 211(b) of such Act (42 U.S.C. 4631(b)) is amended by striking out the second comma and all that follows "required by" through "available", and inserting in lieu thereof "State law which is determined by the head of the lead agency to have substantially the same purpose and effect of such payment under this section.".

ADMINISTRATION

SEC. 208. Section 212 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4632) is amended to read as follows:

"ADMINISTRATION

"SEC. 212. (a) A displacing agency shall prevent unnecessary expenses, duplications of functions, and Government competition under this Act and promote the efficient and effective delivery of relocation assistance services by carrying out such functions through any governmental instrumentality having an established organization for delivering such services, or any individual, firm, corporation, or association.

"(b) The use of private sector delivery systems shall, whenever feasible, incorporate competition among alternative service providers in order to minimize costs.".

REGULATION

SEC. 209. (a) Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended to read as follows:

"REGULATION AND ADJUDICATION

"SEC. 213. (a) The President shall designate a lead agency.

"(b) The head of the lead agency shall—

"(1) develop, publish, and promulgate, with the active participation of other departments and agencies responsible for funding relocation and acquisition actions, and in full coordination with State and local governments, such rules as may be necessary to carry out this Act;

"(2) assure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency, or a State or State agency with Federal financial assistance;

"(3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act, and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

"(4) perform other duties as may be provided by law as relate to the purposes of this Act.".

ELIGIBILITY

SEC. 210. Section 216 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4636) is amended by inserting the following before the period at the end thereof: ", except as otherwise provided in this title".

TRANSFER OF SURPLUS PROPERTY

SEC. 211. Section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4638) is amended by striking out "all amounts received" and inserting in lieu thereof "all net amounts received".

REPEALS

SEC. 212. Sections 214, 215, 217, and 219 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4634, 4635, 4637, and 4639) are hereby repealed.

TITLE III—UNIFORM REAL PROPERTY ACQUISITION POLICY

UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

SEC. 301. (a) Section 301(2) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651(2)) is amended by inserting the following before the period at the end threof: "except the head of the displacing agency may forego an appraisal where the acquisition of such property is a donation, or is a voluntary sale with a selling price of not more than $700, and the seller, after being fully informed of the acquiring agency's obligation to conduct such appraisal, relieves the agency of such obligation. At the election of the owner or the owner's designated representative, the owner shall be provided with a written justification for the amount determined to be just compensation".

(b) Section 301(9) of such Act (42 U.S.C. 4651(9)) is amended to read as follows:

"(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the acquiring agency shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the acquiring agency has determined has little or no value or utility to the owner.".

(c) Section 301 of such Act (42 U.S.C. 4651) is amended by adding at the end thereof the following sections—

"(10) Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after the person has been fully informed of his right to receive just compensation of such property, from making a gift or donation of such property, or any part thereof, or any interest in, or of any compensation paid therefor, to a displacing agency, as said person shall determine.

"(11) In all instances where a Federal agency directly acquires land within the boundaries of a State, no law, rule, or regulation of that State shall be preempted by any Federal law, except as required for the national security of the United States, or unless specifically provided for by the Congress of the United States.".

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions of this Act and the amendments made by this Act shall take effect twelve months from the date of the enactment of this Act, except that section 213, of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and section 401 of this Act shall take effect on the date of enactment of this Act.

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

SECTION-BY-SECTION ANALYSIS

Section 101(a)

Section 101(1): This section eliminates reference in the Act to the National Capital Housing Authority and the District of Columbia Redevelopment Land Agency. If the proposed amendments are enacted these entities are included in the new definition of "State agency" as having power of eminent domain.

Section 101(b)

Section 101(3): This section expands the definition of a "State agency" to include a private corporation that has the power to take private property for public use (eminent domain), except that public utilities are exempted, as are any entities specifically exempted from Uniform Act responsibilities under State law. Such an exemption would, presumably, have to be debated in the State Legislature. Persons displaced by such private entities for a Federal or federally assisted project currently do not qualify for assistance under the Act, Public utilities are exempted from the Act because they cause very little displacement, and would strenuously object to being covered by the Act.

Section 101(c)

Section 101(4): This section limits the applicability of this Act by defining "Federal financial assistance" to Federal programs in which the Federal government makes specific site or project decisions. The intent is to not encumber State/local government administration of "block grants," while maintaining the applicability of this Act to displacement caused or approved by the Federal government.

Section 101(d)

Section 101(6): The definition of "displaced person" for the purposes of triggering certain benefits—moving costs (section 202 (a) and (b)) and advisory services (section 205)—is expanded to include persons directly displaced through Federal or federally assisted rehabilitation or demolition activities. Persons displaced by non-acquisition activities are not presently covered under the Act, but are covered by separate relocation regulations. The expanded definition of "displaced person" consolidates under the Uniform Act 13 different HUD regulations requiring relocation assistance for persons directly displaced by Federal or federally assisted non-acquisition activities. It also ensures that persons displaced by such programs do not have uneven rights and entitlements solely due to the type of displacing activity.

Section 101(e)

Section 101 is expanded by adding three new definitions:

Section 101(10) "Suitable Replacement Dwelling": This term is established to be used in place of "Comparable Replacement Dwelling" wherever it occurs in the Act. Comparability has resulted in substantial red tape, expense, and windfalls in the implementation process. If comparable replacement housing is available, it is intended that the displaced person still have the option of relocating to such housing; however, where comparable housing is not available, suitable housing may be used to satisfy the displacing agency's responsibility for providing replacement housing.

Section 101(11) "Displacing Agency": This term is established to consolidate under a single term all the sources of displacement, including Federal agencies, State agencies, States, and persons furnished Federal financial assistance, solely for the purpose of making the law easier to read and understand.

Section 101(12) "Lead Agency": This term defines the department, agency, or other body that shall be designated by the President pursuant to section 213 to implement uniform regulations.

Policy

Section 201

Section 201: This section, which presently stipulates only that the Act is to provide for the fair and equitable treatment of persons displaced by Federal or federally assisted programs designed for the benefit of the public, is significantly expanded under a new Statement of Findings and Policy.

(a) Section 201(a): The Findings subsection establishes that federally caused displacement occurs under rehabilitation and demolition activities, as well as acquisition activities; that flexibility in the Act to meet the unique circumstances of displaced persons is fair and equitable; and that minimizing the adverse impact displacements have on businesses is vital to the economic well-being of communities.

(b) Section 201(b): The Policy subsection states that the administration of the Act shall minimize unnecessary administrative and program costs borne by State and local governments through economical regulations and the delegation of substantial discretion under the Act to the States; that Federal agencies shall implement steps to minimize waste, fraud, and mismanagement; that uniformity should be subordinate to the need for flexibility in administering the Act; that persons in essentially similar circumstances are to be accorded equal treatment and draws a distinction between the Act's goals of minimizing the hardship of displacement on individuals and improving the housing conditions of the poor, indicating that the latter be integrated with existing housing programs as much as possible. A major purpose of these revisions is to ensure that uniformity exists among Federal regulations, but not necessarily at the local level where unique circumstances should be taken into consideration. However, where the circumstances of two or more persons are in most respects essentially similar—a relatively narrow concept—then the accordance of uniform rights and entitlements under the Act is intended.

Moving and related expenses

Section 202

Section 202(a): This section is rewritten to make it easier to understand. Also, a subsection is added (Section 202(a)(4)) to the effect that reasonable expenses, of up to $10,000, necessary to reestablish a business at its new site are compensable under the Act. The additional amount, though not large, should help small businesses adjust to displacement. This is to correct the problem in the present law that businesses receive substantially fewer rights and entitlements under the Act than do individuals. Under current practice some of the cost of public policy is externalized to the business sector, notwithstanding and may suffer severe economic harm as a result of displacement.

Section 202(b): This section is amended to eliminate the ceiling and floor on the amount paid in lieu of itemized expenses for moving and other expenses associated with relocating, and to delegate the setting of such payments to the head of the lead agency. Removing the ceiling allows the payment to be adjusted upward for inflation. This corrects the incentive for persons to itemize actual expenses and thereby increase the attendant paperwork burden when the in-lieu payment is so low as to be uneconomical. Removal of the floor will help to avoid windfalls presently resulting when persons are displaced from missions or "flop houses."

Section 202(c): This section is amended to raise the current $10,000 ceiling on the amount a displaced business or farm operation may receive in lieu of itemized expenses for moving and other expenses associated with relocating to $20,000; to delete the requirement that this amount be determined based on the annual income of such concern in favor of criteria to be developed by the head of the lead agency; and to require that persons whose sole business was the renting of the displacement property to others shall not qualify for this payment. The increased ceiling is to adjust the ceiling for inflation, since it is currently so low as to make it economical for businesses to itemize actual expenses, and increase the paperwork burdens of implementing agencies accordingly. The new payment criterion is established to provide displacing agencies with greater flexibility. The current criterion has proven very difficult to administer, and has resulted in its abuse purely as a method to speed up projects. Finally, the restricted definition of a business is to prevent windfalls and abuses presently benefitting owners of rental property who have little or nothing to move.

Replacement housing for homeowner

Section 203

Section 203(a): This section is amended to eliminate the requirement that persons be relocated to comparable replacement dwellings in favor of a requirement to relocate such persons to suitable replacement dwellings (section 203(a)(1)(A)); to change the method by which people are compensated for higher mortgage payments for their replacement dwelling to reflect current market conditions through the use of the "buydown" method (Section 203(a)(1)(B)); to allow the head of the displacing agency to extend, for good cause, the new year period in which a person must relocate to a replacement dwelling in order to receive a payment under this section, except that payments are to be computed based on the one year rule; and to allow him to waive the requirement that persons relocate to decent, safe, and sanitary (DSS) housing for good cause due to the unique circumstances of the displaced person. The corrected computation formula is to eliminate a number of unintended windfalls occurring under the present law. The one year rule is to clarify a displacing agency's obligation under the Act where displacement is substantially later than the final payment date—a continuing source of controversy. This is because when agencies lease back property to the displacee for a period of years, inflated land and relocation costs may be significantly higher at the actual time of relocation. However, an agency waiver of the one year rule is included as a fairness provision. The DSS waiver gives persons and State and local agencies greater flexibility.

Replacement housing for tenants and certain others

Section 204

Section 204(a): This section is amended to replace the requirement that relocation be to a comparable replacement dwelling with the requirement that relocation be to a suitable replacement dwelling; and to eliminate the $4,000 ceiling in favor of a formula that pays the lesser of (A) $3,000 or (B) 24 times the amount obtained from subtracting 30% of the displacee's monthly income from the monthly housing cost at the replacement dwelling. The suitability standard is substituted to eliminate windfalls under the comparability standard. The revised payment formula is to reflect the intent that rental subsidies should be based on the person's ability to pay. This makes the effect of this section mildly redistributive, since its application would mainly be to subsidize those not well off.

Section 204(b): This section is amended to allow persons eligible to receive a payment under this section, who are otherwise eligible for low-income housing assistance programs that are either federally administered or assisted, to elect instead to receive such housing assistance provided that it is available; but where such person opts for the cash payment, this is to be taken into account by Federal or federally assisted agencies when determining such person's eligibility for public housing assistance during the four years following the date on which such person received the cash payment. This is to allow agencies to use public housing to satisfy their requirements under the Act, and to eliminate windfalls that benefit persons who receive double housing subsidies.

Section 204(c): This section is amended to eliminate the requirement that persons who elect to apply the ceiling amount allowed under this section toward a downpayment on, and expenses pursuant to, the purchase of a replacement dwelling match any amount over $2,000; to provide that payments under this subsection not be more than they would be under subsection (a); to provide that such person is not to receive other governmental assistance toward such purchase other than federally insured or guaranteed loans or any amount in excess of what he would have received under 204(a); and to provide that homeowners who do not meet the 180 day residency requirements, but meet the 90 day residency requirements for tenants, remain eligible for the full $4,000 payment under this section, as is currently the case. The elimination of the matching requirement is to eliminate the burdensome paperwork that occurs under the current procedure. The limit of payments to the amount the person would otherwise have been eligible for under subsection (a) is to eliminate the use of higher payments as an inducement to homeownership. The "other assistance" clause is to eliminate overly generous or double subsidies. The homeowner clause is a technical adjustment to accommodate the limitation in benefits for tenants under this subsection to those under subsection (a).

Section 204(d): This section is amended to allow the head of the displacing agency to waive the requirement that persons relocate to decent, safe, and sanitary housing for good cause due to the unique circumstances of the displacee. This is to eliminate rigidities under the current law. It is also amended to make persons ineligible for payments under this section (i) if they are found to occupy the dwelling principally for the purpose of receiving assistance, or (ii) if they have been paid under this section in the past two years, except as waived by the head of the displacing agency. This is aimed at eliminating unintended windfalls to persons who camp "one step ahead of the bulldozer."

Relocation assistance coordination and advisory services

Section 205

Section 205(a): This section is amended to require the Secretary of Housing and Urban Development to assign a high priority for assistance to persons who choose under section 204(b) to receive public housing assistance instead of a cash payment; and to assure that other Federal agencies, such as the Small Business Administration, whose programs are of assistance to displaced persons to take practicable measures to provide technical assistance in preparing applications for such programs, and to expedite the consideration of such applications. This is to ensure better coordination of governmental programs, and to better target such resources toward minimizing the hardships that result from Federal programs.

Section 205(b): This section is amended to eliminate the requirement to provide information on the availability of comparable replacement dwellings in favor of suitable replacement dwellings; to include farm operations among the businesses for which information on alternative locations must be provided; and to eliminate the requirement that a person not be made to move unless given a reasonable choice to move to a comparable dwelling in favor of a suitable replacement dwelling. The substitution of suitability for comparability is based on the same rationale as established in Section 101(10). The inclusion of farm operations under this provision is for equity purposes.

Section 205(c): This section is added to require that when two or more Federal agencies are providing assistance to a geographically or functionally related activity, the agencies will agree on a cognizant agency whose procedures which will apply to such activities. This is to eliminate red tape and paperwork burdens where regulations may be the same, but procedures differ. It will also serve to equalize payments. However, the intent is also that such cognizant agencies be established on a project-by-project basis, not in perpetuity.

Housing replacement by Federal agency as last resort

Section 206

Section 206(a): This section is amended to establish that the unavailability of suitable, as opposed to comparable replacement sale or rental dwellings, will determine whether last resort housing must be provided; subject to lead agency certification, States may establish statewide standards for the use of this section, provided that these standards require that persons in essentially similar circumstances are accorded equal treatment; where there is no State law, the lead agency shall promulgate a regulation to the effect that this section may not be used to exceed the payment ceilings under sections 203 and 204, except on a case-by-case basis, for good cause. The substitution of suitability for comparability is based on the same reasons established under Section 101(10). The transfer of regulatory responsibilities to the States is to give the Act greater flexibility than is now the case. The minimum Federal standard is to eliminate inequities as a result of divergent agency missions, subject to some cost-benefit consideration.

Section 206(b): This subsection is added to establish that a displacing agency's obligation to provide replacement housing under this section shall be met, whenever practicable, with existing public housing programs, and that the costs attributable to the provision of such housing shall be borne by the displacing agency. This is to emphasize the need for greater coordination of government programs.

Federal share of costs

Section 207

Section 211(a): This section is amended to delete outdated language establishing coverage under the Act for projects undertaken before July 1971. "State agency" is expanded to "displacing agency" for the purpose of clarity.

Section 211(b): This section is amended to expand the payments for which a displacing agency is eligible to receive any payment which serves essentially the same purpose as those provided for in the Act. This is to give States greater flexibility in designing relocation assistance programs than is now the case.

Administration

Section 208

Section 212: This section is amended to expand those functions a displacing agency may contract out to private firms or nonprofit organizations. This is to eliminate government competition whenever possible.

Regulation and adjudication

Section 9

Section 213: This section is amended to require the President to establish a lead agency in a department, agency or other body. The lead agency issues uniform, government-wide regulations for use by all Federal agencies in administering the Act; coordinates, with the assistance of other agencies, relocation activities under subchapter II of the Act with Federal and federally assisted public housing programs; and performs other duties that pertain to the purposes of the Act. The uniform regulatory requirement is to eliminate burdensome paperwork caused by multiple Federal agency regulations.

Eligibility

Section 210

Section 216: This section is amended to require that payments made under Section 204 of the Act will be considered in determining the recipient's eligibility for low-income housing assistance. Currently such payments are not to be considered as income.

Transfer of surplus property

Section 211

Section 218: This section is amended to establish that the amount to be paid to the General Services Administration by a State after it disposes of surplus property transferred to the State by the Federal government pursuant to a Federal or federally assisted project will reflect only the net amounts received for such property, rather than all amounts as is currently the case. This compensates the States for the cost of marketing such property.

Repeals

Section 212

Sections 214, 215, 217 and 219 are repealed.

(a) Section 214: This section which pertains to the requirement to submit a report on displacement, and which lapsed in 1975.

(b) Section 215: This section, pertaining to the authority of the head of any Federal agency to make loans for planning for relocation assistance activities by non-profit organizations, etc., is repealed due to the fact that this provision has never been implemented.

(c) Section 217: This section, which pertains to the Act's applicability to the now-defunct Department of Housing and Urban Development Model Cities Program, is repealed.

(d) Section 219: This section, which pertains to the Act's applicability to a now-defunct program in New York City, is repealed.

Real property acquisition

Section 301(a)

Section 301(2): This section is amended to allow the head of the acquiring agency to forgo an appraisal where the acquisition of the property is a voluntary taking with a selling price under $700, or a donation, and the seller, after being fully informed of his right to an appraisal, waives such right; and to ensure that the owner or his representative is provided with a copy of a written justification of the approved appraisal. The appraisal waiver for donations is to provide greater flexibility for State and local governments; the waiver for voluntary sales of $700 or less is to protect the displacing agency from having to provide an appraisal where the value of the property is so low as to make an appraisal uneconomical. The appraisal justification is to facilitate "government in the sunshine."

Section 301(b)

Section 301(9): This section is amended to define an uneconomic remnant of property as one with little or no utility to the owner which is left after the partial acquisition of his property for a Federal or federally assisted project; and to direct the head of an agency administering a federally funded program to offer to acquire such an uneconomic remnant so that the owner or occupant would be eligible for the full benefits under the Act. This provision eliminates both ambiguities and the resulting inequities that result, particularly, where the character of a farm is changed by a partial acquisition.

Section 301(c)

Two new paragraphs are added to Section 301:

Section 301(10): Donations are allowed under this provision, notwithstanding the Constitutional requirement that just compensation be paid. The Act currently does not provide for such actions, and donations must, in turn, be allowed under agency authorizing legislation.

Section 301(11): A non-preemption provision is added to establish the supremacy of State law of eminent domain when a Federal agency is directly administering a taking. The intent is that condemnation under eminent domain be conducted in accordance with State rather than Federal eminent domain law. Over 95 percent of all acquisitions under the Act are so conducted; however, the 5 percent directly administered by Federal agencies (e.g., Interior, Corps) are not. This section would improve uniformity in Federal law and regulations, and would implement the Administration's concept of federalism.

Effective date

Section 401

Section 401: This section is added to establish that, with the exception of the lead agency provisions, the effective date of the Act is 12 months after the date of enactment. The 12 month lead time on the other provisions of the Act are to allow the Federal agencies and the States to develop conforming laws and regulations.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 25, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting, for referral to the appropriate Committee, a legislative proposal entitled, "Uniform Relocation Assistance Property Acquisition Policies Act Amendments of 1982."

The proposed legislation would amend the Uniform Relocation and Real Property Act of 1970. That Act, which is generally applicable to agencies of the Federal government, established a uniform policy of fair and equitable treatment for persons displaced by Federal programs or Federally assisted programs. In particular, the Act made available a number of benefits for persons displaced by the Federal government, including, for example, moving expenses incurred in relocating to a new home, and certain advisory assistance, as well as establishing uniform policies to govern acquisition of real property by Federal agencies.

It has come to our attention that since the enactment of the original Uniform Relocation and Real Property Act a number of problems have arisen in its application. These problems, many of which were cited in a 1978 Report of the General Accounting Office, "Changes Needed in the Uniform Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs," generally concern eligibility requirements for assistance under the Uniform Act, benefits available to persons displaced by Federal activity, and administrative procedures followed under the Act.

The amendments we are proposing would, we believe, ensure more equitable treatment for persons displaced by Federal action and would do so in a manner that is efficient and cost effective. Our amendments will help see to it that those who do need help under the Act get it and that the help they get—financial or otherwise—is useful and appropriate to their circumstances. Our proposed amendments will also, we believe, go a long way toward guaranteeing a consistent and evenhanded application of the Uniform Relocation and Real Property Acquisition Act by all Federal agencies. Overall, the amendments will result in greater efficiency and equity and reduced administrative costs in the implementation of the Uniform Act.

Sincerely.

David A. Stockman,
Director.

Fact Sheet on S. 2363

A. REDUCES ADMINISTRATIVE BURDENS AND INTRUSIONS ON STATE AND LOCAL GOVERNMENTS

Establishes a lead Federal agency to promulgate a single set of Federal regulations.

Delegates "substantial administrative discretion" to the States to accommodate the need for flexibility to meet local circumstances.

Prohibits Federal eminent domain law from preempting State law when a Federal agency directly acquires land within a State.

Exempts all "block grant" programs from Uniform Act coverage.

B. BROADENS COVERAGE TO PROMOTE GREATER FAIRNESS AND EQUITY

Expands coverage to include persons displaced by substantial rehabilitation and demolition programs (these programs were originally covered under the Act, but fell out when the National Housing Act of 1948 was superceded).

Expands coverage to include persons displaced by private entities which have been granted the power of eminent domain, except public utilities.

Creates an entitlement for displaced small businesses of up to $70,000 to assist in reestablishment at the replacement site (businesses do not currently qualify for mortgage or rental adjustment payments).

C. RAISES MOVING PAYMENT CEILINGS TO COMPENSATE FOR INFLATION

Removes ceiling on "Expense and Dislocation Allowance" so that local officials may set the amount (this payment may be received in lieu of actual moving expenses, which have no ceiling).

Raises ceiling on payment businesses may receive in lieu of actual moving expenses from $10,000 to $20,000.

D. ELIMINATES WINDFALLS, PROGRAM DUPLICATION, WASTE, FRAUD, AND MISMANAGEMENT

Changes mortgage interest differential formula to reflect current mortgage interest rates, thereby eliminating annual windfalls of over $2 million.

Changes rental differential subsidy formula to reflect a person's ability to pay, thus targeting this provision more effectively toward the needy, while reducing total payments by about $20 million annually.

Reduces the number of years for which a person's rent may be subsidized from 4 to 2 years, while reducing the total payment ceiling from $4,000 to $3,000 (the annual subsidy ceiling is raised from $1,000 to $1,500).

Directs the Secretary of HUD to assign a high priority under federally assisted housing programs to those eligible persons displaced under the Uniform Act. The heads of other agencies whose programs are of assistance to such persons are directed to provide technical assistance during the application process, and to expedite the consideration of such applications.

Changes the definition of the dwelling to which displaced persons are entitled to be relocated from a "comparable" to a "suitable" replacement dwelling, thus eliminating up to $19 million in annual windfalls (the "comparable" standard has been interpreted very narrowly by the courts, and has been extremely expensive to administer).

Incorporates protections against persons who locate in the path of Federal projects in order to obtain Uniform Act benefits.

BUDGET IMPACT

Because entitlements under the Uniform Act are funded as part of the cost of displacing programs or projects, there is no direct increase in Federal outlays associated with the Act. However, because programs subject to Uniform Act protections cost government more to implement, an increase in entitlements will indirectly create upward pressure on budgets in the affected program areas. In this respect, estimates by the Congressional Budget Office and the Office of Management and Budget indicate that these amendments will have largely offsetting effects with savings in some areas, and increased costs in others.

[From the Wall Street Journal, May 25, 1982]

THE SILENT SCANDAL

Suppose the U.S. Army were buying a lot of land and asked Congress for $100 million when it knew the real cost would be closer to $500 million. Suppose it used arbitrary power to clear ranchers, retirees and summer homeowners off the land. Suppose it gave some people three months to vacate, and sent armed officers along with the appraisers.

Suppose furthermore, it couldn't get all the land it wanted at fair market value because of its grossly underestimated budget and so arranged with sympathetic local officials to slap zoning changes, building restrictions and the like on targeted parcels to force landowners to sell at its price.

And suppose that the boundary lines on these Army ranges kept changing to include some people, at their loss, and exclude others, at their considerable gain. That an internal investigation, after noting that a series of preliminary boundary maps were missing from the files, offered the official conclusion that it could find no documentary evidence of wrongdoing. And, to top it off, that all the land-buying served no overriding national purpose. We think there might be some public outcry on the situation.

Well, one major federal bureaucracy has been charged with just this pattern of behavior. It's not the Army, but that motherhood and apple pie outfit, the National Park Service.

Evidence has been mounting for years that something is very wrong in the way the Park Service has been taking private property to add to the vast federal land hoard (about one-third of the U.S. land area). The U.S. General Accounting Office has issued eight thick audits severely criticizing Parks and the Interior Department. Interior's own Inspector General recently completed a major investigation; Parks personnel, citing the summary, claim they were exonerated, but that hardly holds up when you look at the main body of the report.

In the Santa Monica Mountains east of Malibu and in the Cuyahoga Valley between Akron and Cleveland, Ohio, the Park Service has been assembling "national recreation areas" by means particularly vulnerable to attack. Landowners in the Santa Monica Mountains say they have been told by park officials on the scene that their property won't be taken, yet they have discovered it on acquisition lists filed in Washington. The local park supervisor has encouraged conservationist-dominated local boards to impose land-use restrictions on them, further adding to their anxiety.

The threat has become reality in the Cuyahoga Valley, a moderately scenic, semi-suburban area. Park officials promised to take only 30 homes but actually have condemned 300, converting the area into a strange, seedy landscape of boarded-up, decaying homes, weed-grown farms and tumble down roadside stands.

A few homes were spared. One expensive dwelling was occupied by a park official. The area encompasses the home of Congressman John F. Seiberling, chairman of the Parks subcommittee of the House Interior and Insular Affairs Committee, and one of the proponents of park expansion. It was not condemned. Department files reveal that the Congressman also succeeded in saving the homes of some of his neighbors.

These exemptions were made possible by "scenic easements," which allow owners to keep their land if they agree not to make changes that would affect the "scenic" quality. Congress indeed has encouraged Parks to purchase scenic easements rather than land. The unwillingness of park administrators to accept this guidance has been mainly responsible for purchase cost overruns. Congress authorized $155 million for the Santa Monica project; the Park Service now estimates costs could go to $700 million. The Cuyahoga acquisition went from $35 million to $70 million and the latest estimate, nearly three years old, calls for $100 million more.

The pattern is consistent nationwide. However the department's land grabbers feel about birds and trees, they seem to have little regard for people.

The personal anguish occasioned by Park Service takings played a large role in Interior Secretary Watt's decision to place a moratorium on land acquisition last year. Loud environmentalist outcries forced him to rescind his action. Just a few days ago, he issued a new directive to field staff to de-emphasize acquisition in favor of less costly means, like scenic easements, of achieving objectives. It remains to be seen how that will play with his bureaucracy and its environmentalist constituents. It also remains to be seen how much relief already targeted homeowners will get.

The scandals of the 19th Century involved large private interests exploiting public land. Today, the reverse is true. Powerful public agencies exploit little property owners. Many in Washington will argue that the ends justify the means, but to us it looks no prettier.

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

April 21, 1982

Senator David Durenberger
Chairman
U. S. Senate Subcommittee on
Intergovernmental Relations
353 Russell Senate office Building
Washington, DC 20510

Dear Senator Durenberger:

Thank you for soliciting the views of the Advisory Commission on Intergovernmental Relations on S. 2363, the Administration's bill to amend the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*. The following comments are offered.

The Advisory Commission on Intergovernmental Relations adopted a landmark study in January 1965 entitled *Relocation: Unequal Treatment of People and Businesses Displaced by Governments*. In that report, the Commission concluded that "As a general principle, . . . persons and businesses displaced by local, state, or federal public works and other programs are entitled to assistance in relocating, and this entitlement extends to leasees and tenants as well as to owners of homes and business establishments." As one means of following through on this conclusion, the Commission recommended "that the Congress establish a uniform policy of relocation payments and advisory assistance for persons and businesses displaced by direct federal programs and by federal grant-in-aid programs, and that the President direct that the necessary steps be taken to formulate uniform regulations for carrying out such a policy." In the course of its study, the Commission found that the relocation assistance being offered under federal aid programs varied quite strikingly from the generous benefits offered under urban renewal to appreciably less in the highway program and none at all in certain other programs.

In 1970, Congress in fact, did, enact a uniform relocation policy. However, consistent administration of this policy was not provided for in the act. There have been numerous attempts, to coordinate the independent authority of the various federal agencies causing displacement of people and businesses, and substantial progress has been made. Nevertheless, the act still provides for independent action by the various federal agencies, and substantial differences still persist in the treatment accorded to displacees falling within the purview of the uniform policy. In addition, the maximum benefit limitations enacted in 1970 have not been updated.

Thus, there is a need for legislation such as S. 2363 which would amend the 1970 act. The Administration's act would update the maximum benefit levels to meet present needs and provide for further adjustments to be made administratively as needed. In addition, S. 2363 would provide for a lead federal agency which would have authority to establish and oversee the implementation of uniform regulations under the act. The bill also would make several technical amendments designed to enhance state and local government flexibility and to simplify administrative matters, and it would expand the coverage of the act to additional types of programs (rehabilitation and demolition in addition to acquisition), additional types of displacees (those displaced by non-acquisition activities), and federally aided private corporations having eminent domain powers (except utilities). These amendments are moving in the right direction and there is much to commend in this act.

At the same time, S. 2363 also would narrow the coverage of the act significantly. Despite the expansions cited above, S. 2363 would explicitly exempt block grants and other programs in which the federal government does not make "specific site or project decisions." With the increasing tendency to merge categorical grants into broad blocks and to increase the amount of discretion and flexibility exercised by state and local governments in the administration of federal aid programs -- all of which we commend — a very large share of federal aid would escape the applicability of the uniform act, as amended. Since most displacees coming under the jurisdiction of the act historically have been put in that position as a result of federal aid programs, as much as 90% of the activities presently covered ultimately could be without protection under these amendments. This would be consistent with neither ACIR's conclusion that all publicly displaced persons and businesses are entitled to relocation assistance nor with the stated purposes of the 1970 act as amended by S. 2363.

National policy continues to call for uniform and equitable treatment of persons and businesses displaced by public action even though greater discretion and flexibility is desirable at the state and local levels. This national policy is as firm and unequivocal as those calling for civil rights and environtmental protection.

Block grants are subject to a number of crosscutting national policy goals and objectives like civil rights and environmental protection. There is no reason why these grants cannot be and should not be subject to the national relocation policy, and this need not unduly interfere with state or local discretion and flexibility. The mechanism for compliance could be certification by the block grant recipient that the national relocation policy will be complied with. This would be followed with compliance auditing to show that state and/or local policies and procedures have achieved equitable results. Most, if not all, states now have relocation and property aquisition acts patterned after the federal act, and could be expected to perform well under such conditions.

I appreciate the opportunity to provide these comments, and hope that they will be helpful to the Subcommittee in reporting out a much needed set of amendments which will update the financial benefits available, unify and simplify federal administration of the act, and expand its coverage so that the goals of uniform and equitable treatment will be more nearly achievable in the years ahead.

Sincerely,

Carl Stenberg

Carl Stenberg
Acting Executive Director

BDM/kkf

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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May 26, 1982

The Honorable Dave Durenberger
Chairman, Subcommittee on
Intergovernmental Relations
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This is in response to your letter of April 14, 1982, requesting our views on S. 2363, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

In March 1978, we issued a report entitled "Changes Needed In The Relocation Act To Achieve More Uniform Treatment Of Persons Displaced By Federal Programs." In that report, we concluded that the Federal Government had not completely met its goal of providing uniform treatment to people displaced from their homes and businesses. We believe the root cause of this situation is the President's lack of authority to promulgate uniform rules and regulations to replace the multiple sets of regulations that now exist. We also reported that some people displaced by federally assisted projects were not covered by the act.

In September 1979, we testified before your subcommittee on proposed amendments to the Uniform Relocation Act as embodied in S. 1108, 96th Congress. Our contacts at that time with Federal agencies indicated that the conditions described in our report remained essentially unchanged. We understand that those conditions continue to exist. Accordingly, our comments on the present bill, S. 2363, are based on the knowledge gained from our prior review and subsequent testimony.

S. 2363 does four things: it (1) gives the President authority to designate one agency to coordinate the implementation of the act, (2) broadens and clarifies the coverage of certain sections of the act, (3) at the same time, narrows the application of other sections of the act, and (4) mandates that State laws on eminent domain preempt Federal law when a Federal agency directly acquires land within a State.

LEAD AGENCY

Section 209 of S. 2363, which would amend section 213 of the act, provides for the President to designate a lead agency to carry out the specific responsibilities listed thereunder and in various other sections of the proposed amendments. One such responsibility, of particular importance, is to develop and publish a single set of regulations with active participation of other affected parties. We strongly endorse this amendment which, if adopted, would go a long way toward more completely achieving the basic purpose of the act--uniform, fair, and equitable treatment of people uprooted as a result of Federal or federally assisted programs. While not explicitly stated, we assume that any disputes of interpretation would be referred to the lead agency for resolution.

We suggest that section 213 be expanded along two lines. First, we believe that, with the concurrence of the lead agency, there should be provision for waiving the regulations on a case-by-case basis. This would provide for unforeseen situations where application of the uniform regulations might produce unintended results. Second, provision should be made for an appeals process to accommodate any person aggrieved by any action of a displacing agency. Language contained in the proposed section 213 in S. 1108, 96th Congress, would accomplish this purpose.

It may also be desirable to establish a time frame in which the President must designate a lead agency. Section 213 is effective upon enactment of the proposed amendments, whereas the other provisions become effective 1 year later. To assure that the other provisions become operative on time, the lead agency needs to be designated during this 1-year period, hopefully as early as possible to get the regulations in place. The lead agency will need time to sort out the issues, reach agreement among the parties, and put the regulations in place. Perhaps a designated date, for example within 1 month of the enactment date, should be legislated.

BROADENING COVERAGE OF THE ACT

The proposed amendments to section 101 of the act broaden the definition of "State agency" in section 101(3) and add a new term "displacing agency" in section 101(11). "State agency" is redefined to include any entity having eminent domain authority, with certain exceptions. This redefinition extends coverage to persons displaced by private corporations, but only those with eminent domain authority. The term "State agency," however, is not further used in any sections of the proposed amendments. Instead, a new term "displacing agency" is defined and used. This new term is defined in terms of Federal agency, State, State agency, or person (which itself is further defined in section 101(5) of the act to include private entities) but is not defined in terms of an entity having or not having eminent domain authority. The term "displacing agency" is used in the proposed amendments for simplicity's sake, but because it is not limited with regard to eminent domain authority, the act would apply to all displacements as long as Federal financial assistance is involved. We understand, however, that it was not the Administration's intent to extend coverage to all displacments, but rather only to those where the displacing agency had eminent domain authority.

If the Congress wants to limit the act's coverage to situations involving displacements by entities having eminent domain authority, with the proposed exceptions, we suggest that section 101(11), defining "displacing agency," be revised by inserting between "person" and "furnished," the phrase "with eminent domain authority and that is."

Whether or not this change is made, it may be desirable to conform language in the existing act, which in many places uses either "Federal agency" or "State agency," to the new term "displacing agency." Sections 203, 210, 211, 218, and Title III use the old terms even though it is apparent that the new term is appropriate in most, but not necessarily in all, cases.

Another issue relates to broadening of the act to cover displacements caused by substantial rehabilitation or demolition. The proposed section 101(6)(B)(ii) provides that the benefits to be provided are those only available under section 202(a) and (b), moving and related expenses, and section 205, relocation assistance coordination and advisory services. The benefits under section 203, replacement housing for homeowners, and section 204, replacement housing for tenants, are not proposed to be available to persons displaced by substantial rehabilitation or demolition. In contrast, these benefits were available under section 217 prior to the Housing and Community Development Act of 1974 and were to be made available in proposed amendments embodied in S. 1108, 96th Congress.

NARROWING COVERAGE OF THE ACT

In section 101(c) of the proposed amendments, the definition of Federal financial assistance in section 101(4) is modified, resulting in a narrowing of the act's coverage.

The Administration's interest in proposing to modify the definition was to unencumber, under the New Federalism philosophy, all block grants from the Federal statute dealing with relocation assistance. However, the issue extends beyond block grants in that the modifying language encompasses all Federal financial assistance "where the Federal government has no direct responsibility with respect to specific site or project approval decisions." Although this issue is a policy choice for the Congress, it may want to explore the ramifications of the modifying language. In your deliberations on this proposal, we suggest that the language be thoroughly discussed and understood, lest confusion abound in applying the modified definition in the future. There appears to be confusion now regarding the language as recounted in your opening statement.

In considering the modifying language, you may wish to pose the following questions to the Administration:

--Will an individual Federal program statute, Federal program regulation, or program guidance material be the guiding language for determining direct responsibility for specific site or project approval?

--Which programs, using the Catalog of Federal Domestic Assistance, will presently remain covered and which ones will not?

--What are the intentions of the Administration to propose changes in Federal program statutes or to make changes in Federal program regulations or guidance material that would move the Federal Government into more direct responsibility for site or project approval or into the opposite direction?

--Does the Administration have a good understanding of present State laws on relocation assistance, and, more importantly, in which direction State governments may move in providing for relocation assistance?

FEDERAL OR STATE EMINENT DOMAIN LAW

The Administration, in its proposed amendments to the act, sought to prohibit the use of Federal eminent domain law to preempt State law when a Federal agency directly acquires land within a State. We understand that the Administration has since withdrawn its support for the proposed amendment until such time as the Departments of Justice and the Interior further study the proposal. We, ourselves, have no special knowledge of the possible effect on the Federal Government should the amendment, as proposed, become law, nor are we aware of the particular issues the Departments have raised. Once these issues surface, we may be in a better position to comment.

TECHNICAL COMMENTS

Section 206

This amends section 206(a), the last resort housing section, by deleting "comparable replacement sale or rental housing" and substituting "suitable replacement dwelling." In a decision involving the Corps of Engineers, we considered the relationship between the replacement housing assistance of up to $15,000 provided in section 203 and the last resort housing provisions of section 206. We held that where homeowners displaced by Government action are financially unable to purchase comparable decent, safe, and sanitary replacement housing, rental housing may be considered appropriate replacement housing under section 206. It was clear to us that homeowners, under certain circumstances, could be placed in a rental status, rather than maintaining them in homeowner status, and the purposes of the act would be fulfilled. The clarity came from the present language of "comparable replacement sale or rental housing."

The proposed amendment deletes "sale or rental housing" and uses "dwelling." The proposed amendment would make it less clear to us whether the Congress would accept or allow a change from homeowner status to rental status and still fulfill the act's purpose. We suggest that the subcommittee clarify this issue either through a revision to the act itself or in the report accompanying the bill.

Section 209

Section 209 of the present act makes reference to relocation assistance by the District of Columbia government and refers to the "Commissioner of the District of Columbia" and the "Commissioner." Since the Commission form of government has been changed to a Mayor and City Council form of government, a revision of terminology would be appropriate at this time.

Section 210

Section 210(3) of the present act makes reference to section 205(c)(3), which section has been proposed for amendment. The proposed change in section 205(c)(3) appears to have little relationship with the act's present wording, and a reference thereto no longer appears appropriate. A proper reference could be made to section 101(10), a proposed amendment to define "suitable replacement dwelling."

If you desire, we are available to discuss these matters further with you or your staff.

Sincerely yours,

Milton J. Socolar

Acting Comptroller General
of the United States

AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS

JOHN A. CLEMENTS, President
Commissioner
New Hampshire Department of Public Works
and Highways

FRANCIS B. FRANCOIS
Executive Director

The Honorable Dave Durenberger
United States Senate
353 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

As noted in my letter of April 14, a copy of S.2263 was forwarded to our member department with a request for comments. The departments of 26 states have responded thus far and I am herewith transmitting a copy of those responses for review as your Subcommittee considers the bill.

By way of summarizing these responses, it can be noted that while most states generally supported the legislation as drafted, some did not and many had specific concerns and reservations about various sections, and I commend the reading of each state's detailed response to you. Certain points which appeared in several responses include:

- The change in Section 101(4) which excludes block grants from the Uniformed Relocation Assistance and Real Property Acquisition Policies Act and where, as you commented, it "is thought by some in the Federal Highway Administration to exclude . . . most of the Federal highway program," was a source of concern for several states. The sentiment was that Federal highway programs must remain covered.

- Several commented on the Section 213 change calling for the designation of a "lead agency." The general sentiment was in favor of the Federal Highway Administration, or Department of Transportation, or a "non-operating" agency such as the Office of Management and Budget or the General Services Administration.

- There was concern by some that the language of the bill may call for appeals to be litigated in Federal rather than state courts.

- A number of states supported the "buy down" provision of Section 203(B), although one feels that funds provided under this section should be required to be applied to the mortgage.

- On the change in wording from "comparable" to "suitable" in Section 101(e), six states were in favor while three were not. Clearly there are concerns about the implication of both words and it may be possible to draft language which eliminates the possible disadvantage attendant to each.

- Most states supported the increased allowance to relocate businesses although one was emphatically opposed and some commented that all businesses, not just "small" business, should be affected.

- Two states were concerned about the law becoming effective after a nine month period following enactment, in that states with biennial legislative terms may not be able to enact appropriate state legislation in this brief a period.

As mentioned, many states had further, detailed comments on the other aspects of the legislation, as may be noted in the attached letters.

Also, as you know, the AASHTO Administrative Subcommittee on Right-of-Way had its mid-year meeting in Oklahoma City, April 26-30. A portion of that meeting was given over to a discussion of S.2363 with the able assistance and participation of Mr. Hewitt of your staff. While he is familiar with the views expressed there, two points seem worthy of comment:

- On the subject of Section 204(a) specifying 30 percent of gross monthly income be subtracted from replacement housing monthly costs, many supported these numbers but felt that such specific values should be a matter of regulation rather than law. On a show of hands at the meeting, this sentiment was unanimous.

- Several spoke in favor of the Section 301(2) provision allowing appraisals to be forgone, where the acquisition is a donation, or when the selling price is under $700, with many feeling that that value should be raised to $1,000, and some suggesting it be even higher.

I trust these comments will be helpful as you enter the mark up stage of this legislation.

Very truly yours,

Francis B. Francois
Executive Director

Enclosures

FBF:DJH:tcd

STATE OF ALABAMA
HIGHWAY DEPARTMENT
MONTGOMERY, ALABAMA 36130

FOB JAMES
GOVERNOR

BOBBY J. KEMP
HIGHWAY DIRECTOR

April 20, 1982

Mr. Francis B. Francois
Executive Director
AASHTO
444 N. Capitol Street, N. W.
Suite 225
Washington, D. C. 20001

Re: Administration Relocation
Assistance and Real Property
Acquisition Policies Bill

Dear Mr. Francois:

We have reviewed Senate Bill 2263 and wish to offer the following comments:

Section 101(a) - No objection

Section 101(b) - No objection

Section 101(c) - No objection

Section 101(d) - No objection

Section 101(e) - (10) - We strongly favor the use of "Suitable Replacement Dwelling" in lieu of "Comparable Replacement Dwelling."

Section 101(11) - No objection

Section 101(12) - No objection

Section 201 - No objection

Section 202(a) - "Reasonable expenses" should be defined and exclude any betterments to the realty. How many additional millions of dollars will the new payment of up to $10,000.00 cost?

Section 202(b) - No objection

Section 202(c) - Deleting the annual income requirement to determine the amount of payment should be beneficial.

Section 203 - No objection

Section 204(a) - We expect difficulty in obtaining "gross monthly income" of adult members of a household.

Sections 204(b)(c) & (d) - No objection

Section 205 - No objection

Section 206 - No objection

Section 207 - No objection

Section 208 - No objection

Section 209 - No objection

Section 210 - No objection

Section 211 - No objection

Section 212 - No objection

Section 301 - We strongly favor the revisions to this section.

Section 401 - No objection

Very truly yours,

Paul G. Stough

Paul G. Stough, Engineer
Bureau of Right of Way

HS/jk

ARIZONA DEPARTMENT OF TRANSPORTATION

HIGHWAYS DIVISION
206 South Seventeenth Avenue Phoenix, Arizona 85007
RIGHT OF WAY SECTION

BRUCE BABBITT
Governor
WILLIAM A. ORDWAY
Director

THOMAS R. LAMMERS
Assistant Director
and State Engineer

April 21, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 North Capitol Street, NW
Suite 225
Washington, DC 20001

RE: Administration Relocation Assistance &
Real Property Acquisition Policies Bill

Dear Mr. Francois:

Since I have followed, with a great deal of interest, the development of Senator Durenberger's bill since its inception, I appreciate receiving your April 14, 1982 letter concerning that matter.

Although time does not allow for a complete review of the submitted material, I have looked over the data and submit a couple comments.

1. Most of the suggested changes in this proposed legislation are timely and needed.
2. Many coincide with the current effort as outlined by changes being offered by FHWA.

Our Relocation Services Manager, Mr. Richard K. Esser, will be attending the Conference in Oklahoma City with me, and we look forward to participating in the Conference with discussions on the Durenberger Bill and other relocation matters. We look forward to meeting you there.

Sincerely,

J. E. ROBERTSON
Chief Right of Way Agent

JER:jmg

ARIZONA DEPARTMENT OF TRANSPORTATION
206 South Seventeenth Avenue Phoenix, Arizona 85007

BRUCE BABBITT
Governor

WILLIAM A. ORDWAY
Director

April 22, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 North Capitol Street, NW
Suite 225
Washington, DC 20001

RE: Administration Relocation Assistance
and Real Property Acquisition
Policies Bill

Dear Frank:

I received the material concerning proposed legislation on Relocation Assistance and Real Property Acquisition Policies on April 19th. Recognizing your need for a rapid response, I am providing you with my thoughts, based on a quick review of the material provided. Additionally, I realize the importance of the proposed legislation that will be discussed at the Oklahoma City meeting, and will send our Chief Right of Way Agent, Mr. J. E. Robertson, to participate in any and all discussions.

Based upon information provided by staff, I believe that amendments to present uniform policies are essential and necessary in order to redefine and establish a "uniform policy" for all to follow. The proposed amendments comprehensively cover the majority of the areas of concern. The issues raised by Senator Durenberger are extremely valid and should certainly be addressed.

One significant point raised by Senator Durenberger is ". . . a provision that would limit coverage to persons displaced by programs where the Federal Government has direct responsibility with respect to specific site of project approval decisions." Durenberger goes on to say that "This definition is thought by some in the Federal Highway Administration to exclude not only block grants, but most of the Federal highway program as well. Thus, if enacted in its present form, the administration's bill could exclude over 90 percent of those persons currently covered under Uniform Act protections." From Arizona's standpoint, such a change would truly exclude a large number of people from receiving relocation benefits because of our State Law (28-1848), which states "The authority of the director to make the expenditures authorized by sections 28-1843 through 28-1846 may be exercised only so long as the federal government continues to fund and participate in all such costs in connection with the construction of federal-aid highways."

As you can see, without specific Federal funds for relocation activities, we would be unable to, under our present laws, provide any benefits to those persons affected by a transportation project. As I indicated at the outset, amendments to the present uniform policies should be considered and adopted; however, any serious changes in the funding structure could have a dramatic affect on not only Arizona, but probably other states.

I trust the comments I've provided will be of assistance to you in compiling data for consideration and discussion by the Subcommittee on Right of Way. In addition, I'm certain Mr. Robertson will be able to cover the subject in more detail while he is at the Conference.

Cordially,

Bill

W. A. ORDWAY
Director

WAO:rjg
cc: J. E. Robertson

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Henry Gray, Director
Telephone (501) 569-2000

P.O. Box 2261
Little Rock, Arkansas 72203

April 20, 1982

Mr. Francis B. Francois
Executive Director
American Association of State
Highway and Transportation Officials
Executive Office: 444 North Capitol Street
N. W. Suite 225
Washington, D. C. 20001

RE: Administration's Relocation
Assistance and Real Property
Acquisition Policies Bill

Dear Mr. Francois:

In response to your letter of April 14, 1982, the legislation contained in the above subject bill has been reviewed. The proposed amendments appear to be equitable and at the same time do not change the basic intent of the Act.

At this time we have no opposition to the bill, but suggest that the ceiling be taken off of the replacement housing and rental subsidy payments.

Thank you for the opportunity to respond.

Yours truly,

Martin

D. H. Martin, Chief
Right of Way Division

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Henry Gray, Director
Telephone (501) 569-2000

P.O. Box 2261
Little Rock, Arkansas 72203

May 3, 1982

Mr. Francis B. Francois
Executive Director
American Association of State
   Highway and Transportation Officials
N. W. Suite 225
Executive Office: 444 North Capitol Street
Washington, D. C. 20001

RE: Administration's
Relocation Assistance and
Real Property Acquisition
Policies Bill

Dear Mr. Francois:

A discussion of the administration's bill during the Right of Way Conference in Oklahoma City has prompted us to comment further.

It is our opinion that the rent supplement payment maximum should not be decreased and there should not be a "means test" to determine whether a tenant is eligible. It could be discriminatory as the proposed amendment reads now. Also the proposed method for determining an increased interest payment seems to be equitable, but there may be times when this method will not work and the Uniform Act should not tie us down to a particular method. This amendment should be written with more flexibility.

Please add these comments to the ones contained in our letter of April 20, 1982.

Yours truly,

D. H. Martin, Chief
Right of Way Division

STATE OF COLORADO

DEPARTMENT OF HIGHWAYS

4201 East Arkansas Ave.
Denver, Colorado 80222
(303) 757-9011

April 21, 1982

Mr. Francis B. Francois
Executive Director
American Association of
State Highway and Transportation
Officials
444 N. Capitol Street, N.W.
Suite 225
Washington D.C. 20001

Re: Administration Relocation Assistance and Real Property Acquisition Policies Bill

Dear Francis:

Thank you for the opportunity to make comments on proposed Senate Bill S.2263 relating to the amendment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. In general, we would agree with this bill and the changes it would bring about in administering the relocation program.

One disturbing point made by Sen. Durenberger in his address to the Senate was his concern that the federal highway program may be excluded from the uniform act. We most certainly want this corrected in any revision to the bill.

We have some questions, as does everyone else I am sure, on certain details of the new bill--such as renter's gross monthly income (should this be average gross monthly income); what is meant by reasonable expenses necessary to re-establish a displaced business; and other details. I'm confident this will be brought out in Oklahoma City.

We agree in concept to the changes in procedures, payments and the flexibility given to the states. One point of uneasiness that all of us in transportation would have is the authority given to "head of lead agency," anticipating this agency may not be transportation.

Again, thank you for the opportunity to make comments and I am looking forward to discussing this in greater detail in Oklahoma City.

Very truly yours,

ROBERT L. CLEVENGER
Asst. Chief Engineer-Project Development

By Kenneth W. Acker
KENNETH W. ACKER
Staff Right of Way Manager

KWA/dm

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

April 28, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W., Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

Subject: Administration Relocation Assistance and Real Property Acquisition Policies Bill

This is relative to your letter dated April 14, 1982 in regard to the referenced bill and proposed amendments.

We are generally in concurrence with Senator Durenberger's letter to the President, particularly that portion which addresses the narrowing aspects of the Act's applicability. It can be construed that this narrowing would evolve through the administration's attempt to accomplish the reforms by conditioning Federal financial assistance.

In this regard, concern has been generated in "a provision that would limit coverage to persons displaced by programs where the Federal Government has direct responsibility with respect to specific site or project approval decisions". It is further conveyed that this provision "is thought by some in the Federal Highway Administration to exclude not only block grants, but most of the Federal Highway Program" as related to Relocation Assistance. This area should be more precisely interpreted and expanded upon.

It is our overall consensus that the amendments which have been introduced to update and broaden the payments and eliminate the areas of windfalls, are fair and equitable.

Very truly yours,

Edmund J. Mickiewicz
Chief Administrative Officer
Bureau of Administration

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

ADDRESS REPLY TO
BUREAU OF DESIGN, ENGINEERING & RESEARCH
613 G STREET, N.W.
WASHINGTON, D.C. 20001

April 19, 1982

Francis B. Francois
Executive Director
American Association of State
Highway and Transportation Officials
414 North Capitol Street, N.W., Suite 225
Washington, D.C. 20001

RE: Administration Relocation Assistance and Real Property Acquisition Policies Bill

Dear Mr. Francois:

In response to your request of April 14, 1982 I have reviewed the proposed legislation and offer the following comments:

PROPOSED ACT

Page 8: In the first line, "two" years should be changed to "three" years. In the third line, "$3,000" should be changed to "$4,500" and "24" should be changed to "36".

The first change would provide more assurances of a stable home environment for the displacees. The second change would provide the same compensation for inflation as the proposed (the annual subsidy ceiling raised from $1,000 to $1,500). The formula in Section 204 (a)(B) would still direct assistance to the needy.

Page 8: Delete the second sentence in Section 204(b).

This would reduce administrative burdens on the state and give the displacee a clear choice.

ANALYSIS

Page 6: Section 204(b), first line; correct spelling of "explicitly".

Page 7: First line; "full $3,000" should be "maximum allowable".

Page 11: Section 301(a), first sentence, last three lines; this clause should be changed to reflect that legislation provides that written justification will be furnished at the election of the owners.

FACT SHEET

Page 2: Third line from the bottom; correct spelling of "reimbursements".

Sincerely,

Horace G. Jones, P.E.
Assistant Director

Hawaii Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

April 28, 1982

Mr. Skip Zelasko
Secretary
AASHTO R/W Committee
400 - 7th Street, SW.
Washington, D.C. 20590

Dear Skip:

Re: Administration Relocation Assistance and
Real Property Acquisition Policies Bill

My apologies for not having this typed on our official stationery but it would be impossible to meet the deadline for comments if I were to go home to do so.

Please convey our sincere appreciation to Senator Dave Durenberger, Paul Hewitt and the other staff members who are responsible for the drafting of the subject Bill (S.B. 2363). We believe that overall the amendments will give the States greater administrative discretion and reduce red tape.

We, however, wish to express the following concerns:

1. The Section 204(a)(B) requirement that 30 percent of the displaced person's gross monthly income be subtracted in computing the rent supplement will be very difficult, if not impossible, to administer so should be deleted from the amendment.
2. The Section 301(a) Section (2) limitation of a selling price of not more than $700 as the criteria for foregoing an appraisal where the acquisition is a donation or a voluntary sale is too low in today's real estate market and should be raised to $2,000 or $2,500 depending on the suggestions from the majority of the States.

Thank you very much for having afforded us an opportunity to submit our comments.

Very truly yours,

Edward K. Ochiai

Edward K. Ochiai

GEORGE R. ARIYOSHI
GOVERNOR

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

RYOKICHI HIGASHIONNA, Ph.D.
DIRECTOR

DEPUTY DIRECTORS
Wayne J. Yamasaki
JAMES R. CARRAS
JAMES B. McCORMICK
JONATHAN K. SHIMADA, Ph.D.

IN REPLY REFER TO
HWY-R
3.52510

APR 23 1982

Mr. Francis B. Francois
Executive Director
AASHTO
444 N. Capitol Street, N.W.
Suite 225
WAshington, D. C. 20001

Dear Mr. Francois:

Administration Relocation Assistance and
Real Property Acquisition Policies Bill

Thank you very much for sending me a copy of S.2263 with back up documents. My response will obviously not reach you by April 23, 1982.

I have no comments to offer at this time, but I am grateful for the fact that I will be attending the Oklahoma City meeting of the Subcommittee on Right-of-Way on April 26-30, 1982.

Very truly yours,

Edward K. Ochiai
EDWARD K. OCHIAI
Chief Right-of-Way Agent

STATE OF IDAHO

JOHN V. EVANS
GOVERNOR
IDAHO TRANSPORTATION BOARD
CARL C. MOORE - CHAIRMAN
LLOYD F. BARRON - VICE CHAIRMAN
ROY I. STROSCHEIN - MEMBER
DARRELL V MANNING
DIRECTOR

TRANSPORTATION DEPARTMENT

P.O. BOX 7129 BOISE, IDAHO 83707

April 23, 1982

Francis B. Francois, Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol St., N. W., Suite 225
Washington, D. C. 20001

Re: Relocation Assistance and Real Property
Acquisition Policies Bill (S.2263)

We have reviewed the proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as embodied in Senate Bill S-2263, introduced by Senator Dave Durenberger, April 13, 1982.

In general we concur in the ammendments proposed. Many of the changes - removing the ceiling on moving expenses, raising the ceiling on the "in lieu" of moving payment, changing the definition of a replacement dwelling from "comparable" to "adequate" - have been needed for a long, long time.

Establishing Government-wide regulations that will suffice for all agencies will be very difficult. However, uniformity was and is the main purpose of the act. We see this as a step in the right direction.

We will have a representative from this Department at the subcommittee meeting in Oklahoma City.

Thank you for the opportunity to comment on this important issue.

Very truly yours,

G. K. GREEN
State Highway Administrator

f

Illinois Department of Transportation
2300 South Dirksen Parkway / Springfield, Illinois/62764

May 8, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 North Capitol Street, N.W. Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

This is in reply to your letter of April 16, 1982, requesting review and comments on the proposed regulatory review agenda relating to Titles II and III of the Uniform Act.

We are not necessarily opposed to the concept of uniformity in implementing the Uniform Act provisions; however, some of the "problem" areas appear to over-emphasize non-uniformity; and, the implied cure is to add more regulations to enforce, clarify and preserve existing requirements.

The following comments are made for each of the items on the Agenda:

I. Title II - Administrative Procedures

A. This is a good example of adding more regulations; i.e., definitions, in hopes of creating more uniformity. More definitions will not guarantee uniformity because of diverse agency interpretations of definitions. We question whether there is sufficient non-uniformity to justify more definitions which would be subject to further non-uniform interpretations.

B. We agree that minimum requirements are essential. However, agencies must be given some flexibility in the administration of relocation assistance. What may be considered desirable minimum requirements in urbanized projects may be undesirable or excessive in rural projects or other geographical areas.

C. We have implemented several projects in which at least two Federal agencies were involved in funding. While some difference existed, we were always able to resolve these amicably.

D. We fail to see how greater uniformity in the form and frequence by which project assurances are given is relevant to the "Analytic Criteria" so long as the Section 210 requirement is in fact, met.

II. Benefit Level / Computations of Payments / Eligibility

A. We agree the existing Last Resort Housing requirements are a problem. However, we believe the biggest problem is the administrative burden of excessive requirements. Most Last Resort Housing situations do not involve a lack of available housing, but merely involve payments in excess of the maximum replacement housing payments. There is only one cure for this problem which is to eliminate the minimum payment amounts from the Federal law. This would negate Last Resort Housing requirements.

B. We agree that the area of eligible moving expense items needs some clarification insofar as business moves are concerned. The most sensitive and controversial issue involves the question of what constitutes an "improvement" to the replacement site. Perhaps more definition of "improvements" and/or "non-improvements" would be beneficial.

C. This problem indicates a "uniform rule" as being the remedy. The existing 90 and 180-day occupancy requirements are statutory and would require amendments to the Uniform Act to revise or eliminate. We believe minimum occupancy requirements are necessary to prevent windfall payments.

III. Title III - Acquisition

A. Local agencies must meet the same review requirements as State and Federal agencies when there is Federal assistance in the acquisition costs. When local agencies are funding acquisition costs without Federal assistance, the agencies still must, by Title III, "approve" the amount to be offered. Mandating a uniform review process on local agencies would not be cost beneficial nor serve any useful purpose to either the states or the Federal agencies other than to interfere with how the local agencies spend their own money.

B. Section 203 as it exists, is viewed by many states and the courts as contrary to traditional valuation concepts. Illinois courts have long held that interests in property cannot be valued separately and then added together to arrive at the value of the whole property. It is our position that Section 302 is not enforceable and, if anything, should be reppealed. The question of separation of interests is clearly a matter for the courts to decide on an individual case basis where the owners of separate interests cannot agree among themselves.

C. We agree that adoption of minimum appraisal standards may have merit, particularly when we are doing work for other agencies. However, there could still be controversy between agencies choosing to operate under higher than minimum standards. We would therefore recommend caution in mandating additional requirements merely for the sake of uniformity. Again, we would certainly be opposed to mandating minimum appraisal standards on local agencies who are not utilizing State or Federal funding in their acquisition projects.

D. We question how more controls would relieve congestion in the courts. We believe tighter standards for administrative settlements would create the opposite effect of increasing costs and delays. Perhaps there could be more explanation required to support the reasoning of settlements without jeopardizing the flexibility of administrators.

E. Here we simply ask again, how will more regulations reduce paper work, etc.? If the purpose of clarification of requirements is to provide more uniform treatment to property owners without increasing paper work, we would agree the idea has merit. However, as you may know, a few states are required by their statutes to furnish the entire appraisal to property owners. We would strongly object to his extreme being mandated and suggest that well enough be left alone.

Sincerely,

Harold T Allen

Harold T. Allen
Engineer of Land Acquisition

TRB:cjd
cc-
E. J. Zelasko

Department of Transportation
HIGHWAY DIVISION
800 Lincoln Way, Ames, Iowa 50010
515-239-1124

REF. NO. 040

April 20, 1982

Mr. Francis B. Francois
Executive Director
American Association of State
 Highway & Transportation Officials
444 N. Capitol Street NW, Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

Thank you for an opportunity to comment on S.2263, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The Iowa Department of Transportation supports amendments to the Uniform Relocation Act as prepared by the Office of Management and Budget. We understand that the Administration has also endorsed the bill. These amendments will improve this program by reducing potential for excess benefit payments and should simplify the administration of the act.

The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 has sweeping application to all federally funded programs. Twelve years ago this act provided the basis for enabling legislation in all 50 states. In Iowa, this relocation assistance law is found in Chapter 316 of the Code of Iowa. Title II relocation assistance benefits paid by these laws have greatly reduced, and in the case of residences nearly eliminated, eminent domain litigation. Title III of this federal law is intended to assure acquisition policies which provide open and good faith negotiations with all citizens whose lands are needed for public works projects.

Twelve years of experience with this act indicate there is a need to simplify the Title II relocation assistance and Title III uniform acquisition grievance resolution procedures. It would be of great assistance not just to the State of Iowa but nationally if litigation challenging the appropriateness of the state or local compliance with acquisition policy standards were confined to and resolved in state courts. Trying these issues in state courts would contribute to relieving congestion in the federal judicial system and should provide a more available and affordable remedy to Iowa's citizens.

Similarly it is necessary to provide persons dislocated by public works projects with a prompt resolution of their relocation assistance benefit appeals. These persons are caught in the middle of negotiating for the purchase or rental of replacement housing or moving their business or farm operation. Relocation assistance benefit payments are needed immediately. Relocation assistance appeals should be resolved through non-adversary proceedings without use of formal rules of evidence. Any judicial or administrative appeal procedure which would delay receipt of such benefits pending a trial would work a great hardship on them.

The Office of Management and Budget considered this issue in prior drafts to the amendments to the Uniform Act. HR 5099 introduced 11/22/81 proposed to require all Title III grievances to be adjudicated in accord with state law and Title II grievances to be adjudicated under the Federal Administration Procedures Act. OMB draft bill circulated 2/18/82 proposed to resolve Title III grievances in accord with state law, but was silent on the disposition of Title II relocation appeals.

S.2263 would retain Title II Section 213(b)(3) which would require the head of the federal or state agency to establish procedures to enable aggrieved persons to appeal the amount of their benefit determinations or their eligibility. New subsection 301(11) of S.2263 would require federal agencies directly acquiring land within the boundaries of the state to abide by state laws and regulations. This is not broad enough to solve the problem. In most cases the direct acquiring authority is the state, city or county. Federal involvement is typically through their financial assistance and federal authorization or project approval processes.

We think the approach taken in prior drafts of this bill is far preferable to the bill recently submitted. We recommend that the following new section be added to these amendments:

> Amend Section 213(b)(3) (42 U.S.C. 4633) by adding "All grievances with respect to the administration of Title II and Title III of this Act for a program or project of a state agency including those where the federal government has direct responsibility with respect to specific site or project approval decisions shall be adjudicated in accordance with state law, except in cases directly involving national security. Grievance adjudications shall not be adversary proceedings nor subject to formal rules of evidence."

We feel this proposal is consistent with the Administration's concepts of returning the administration of government back to the states. We know that it would greatly assist in the development of prompt, fair and informal grievance procedures. For your information, I am enclosing copies of prior correspondence which highlights the problem and supports this recommendation. Your support of these amendments and this proposal would be greatly appreciated.

Very truly yours,

D. E. McLean
Director - Chief Engineer

DEM:pc
Enclosures

Department of Transportation
HIGHWAY DIVISION
826 LINCOLN WAY AMES, IOWA 50010 515-296-1101

November 19, 1975

REF. NO.

Mr. Joe Augello
Chief of Acquisition
U.S. Corps of Engineers
6014 U.S. Post Office & Court House
Omaha, Nebraska 68102

RE: Relocation Appeal Procedures

Dear Joe:

I appreciated the invitation to contribute to the 2nd Annual Seminar of the Association of Nebraska Acquisition and Relocation Officials. Presentations were well balanced between appraisal operations, acquisition problems and concepts, and the relocation assistance program. The case studies were particularly interesting.

The in-depth discussion of how the various agencies handled relocation appeals was most interesting. I was amazed at the total lack of uniformity among the procedures discussed by the Corps of Engineers, the National Park Service, the Department of Interior and the State of Nebraska. Public Law 91-646 seeks to minimize hardships to displaced persons in adjusting to relocation. By definition the full amount of relocation payments are needed by the person displaced in order to effect his relocation. Delay in receipt of relocation benefits can work substantial hardship.

Congress recognized that justice delayed is justice denied and directed state agencies and federal agencies receiving federal financial assistance to establish regulations and procedures: 1) to assure payments and assistance programs are administered fairly, reasonably and as uniformly as possible, 2) to assure that all relocation payments are promptly made after a move or in advance for hardship cases, and 3) to assure that relocatees may have their payment and eligibility determinations reviewed by the head of the federal or state agency having authority over the program or project.

Judged on these Congressional imperatives substantial improvement can still be made in appeal procedures. The U.S. Department of Interior, for example, handled some 87 appeals to date under the most formal complicated and long drawn-out process imaginable. It takes some two years to process, all testimony is transcribed, the property owner is forced to retain counsel, and the entire emphasis is on the form rather than the substance of the issues involved. I noted that the government pays attorney fees for the land owners relocation appeal. Although payment of such attorney fees does not appear to be authorized by Public Law 91-646, they are necessary because of the judicial formality of the process. This is particularly true when you consider that the entire amount in controversy is not sufficient to enable the relocatee to retain counsel even if it were all paid as attorney fees.

The State of Nebraska has a procedure that is not as generous as that established by the Department of Interior. In Nebraska, by statute, the relocatee must not only wade through a similar judicial administrative appeal process, but may then be forced to litigate the claim at both the State District and Supreme Court levels while paying his attorney fees as he goes. The net effect of the Nebraska procedure seems to be to dissuade rather than encourage relocatees to feel free to use the appeal process. It certainly does not seem to promote the Congressional imperatives of minimizing hardship and making prompt payment of claims.

If my memory serves me right, the Corps of Engineers has a procedure similar to the Department of Interior except it has a many leveled fact-finding process. The relocatee first appeals at the local organizational level, then if not satisfied to the next level, and finally at the Washington level. The entire process does not appear to be designed nor intended to resolve the issue at the relocatee's home or at the local level.

A process better designed to meet Congressional imperatives would seem to be one which places final fact finding responsibility at the local organizational level. The hearing should be held by persons not directly involved in the agencies relocation program, kept intentionally informal and designed to enable the relocatee to effectively represent himself if he so chooses. The hearing officer should be informed in advance of statutory payment limitations and formulae, and encourage and assist the land owner in presenting all relevant facts. Facts not available to the relocatee should be presented by the Relocation Supervisor on a full disclosure of all relevant material basis. The written findings of such a hearing should be supported by relevant facts with the only review being to determine that findings do not violate statutory payment limitations and formulae, and the rationale used is supported by facts presented. There should be no de novo review at any level as the amount in controversy does not justify it and the delay inherent in such reviews prohibits it.

The State of Iowa has had some seven years experience with such an informal relocation appeal procedure. I am attaching a tabulation of the results of such hearings. Of the 17 hearings held, 13 resulted in increased payments, 3 were approved in the amount offered, and one was reduced. Also attached are copies of the Iowa Administrative Rules 8.9(7) Administrative Appeal and Limitations, 8.9(8) Notice of Administrative Appeals, and implementing Relocation Assistance staff manual text

C.01.g.03 Conduct Relocation Appeals (Pages 17-18).

In the spirit establishing open, fair, prompt and uniform relocation appeal procedures, further consideration should be given to the development of informal procedures similar to those used in Iowa. It would be most appreciated if you would submit this proposal to the Federal Regional Council for study by the Relocation Assistance Implementation Committee.

Thank you once again Joe for your many courtesies.

Very truly yours,

James E. Graham

James E. Graham, Assistant
Right of Way Director
(Administration)

JEG:pc

Attachments

cc: Gordon A. Sweitzer
Right of Way Director
Iowa Department of Transportation
Ames, Iowa 50010

T. J. Thompson/T. J. Madden
Right-of-Way Officers
Federal Highway Administration
Ames, Iowa 50010

George Nuss, Realty Specialist
Gordon Cap, Relocation Specialist
Department of Housing & Urban Development
Omaha, Nebraska 68106

Robert Shetler
Chief, Real Estate Field Office, NCD
U.S. Corps of Engineers
Rock Island, Illinois 61201

Robert D. Garrard
Chief Relocation Assistance Agent
Iowa Department of Transportation
Ames, Iowa 50010

Virginia Boyd/Darryl Green
Central Relocation Administration
City of Des Moines
Des Moines, Iowa 50309

APPEALS

Name	Number	Date of Appeal	Date Appeal Held	Amount Offered	Amount Asked	Amount Awarded	Project Number
Pearl deBoer	1,015	09/12/69	10/02/69	$ 457.65	$1,297.65	$ 652.26	U-534-9(4)--40-29
Paul H & Clara E Samek	49	12/10/69	12/30/69	None	1,750.00	1,750.00	I-380-6(23)--01-57
Gerald & Jean Avery	723	07/30/70	11/25/70	137.10	300.85	300 85	U-534-9(4)--40-29
Gerald & Jean Avery	724	07/30/70	11/25/70	2,112.00	5,000.00	3,977.43	U-534-9(4)--40-29
Vincent J. & Jean Connally	28	09/04/70	10/14/70	237.00	4,980.00	3,197.00	F-151-3(5)--20-31
Laura L. & Joseph Staatny	108	09/30/70	11/10/70	1,414.00	2,300.00	1,600.00	I-380-6(23)261--01-57
Frederick W. Meers	2	02/15/71	03/09/71	513.00	3,327.00	513.00	UN-61-2(10)--41-29
Virgil C. & Mary T. Johnson	84	03/09/71	07/26/71	771.00	No Amount	1,241.00	I-380-6(23)261--01-57
Milo & Florence Vanicek	146	03/09/71	07/27/71	1,800.00	3,405.00	1,800.00	I-380-6(23)261--01-57
Robert W. Zinqula	13	05/18/72	06/29/72	Actual	10,000.00	9,053.47	FN-13-1(6)--21-57
Glen Noe	10	05/26/72	07/11/72	714.00	2,000.00 (Actual Moving	965.00 Offered)	FN-63-6(19)--21-07
Boddicker School of Music, Inc.	911	11/16/72	01/11/73	"In Lieu" Denied	10,000.00 (Actual Moving	10,000.00 Offered)	I-380-6(24)263--01-57
Pete's Standard Service Station	411	03/28/73	05/11/73	"In Lieu" Denied	9,845.76	9,845.76	FU-63-6(22)--40-07
Louise I. & Laurel L. Garrett	62	03/26/73	04/26/73	8,164.00	10,671.15	None	U-63-6(22)--40-07
John V. & Harriette Chapman	143	03/27/73	05/10/73	None	5,000.00 (Actual Moving	None Offered)	UN-67-1(10)--41-82
Airport "66" Service	2,012	10/31/73	02/12/74	"In Lieu" Denied	8.151.72	8,151.72	I-380-6(22)258--01-57
Owen & Betty Dike	25	12/05/73	03/28/74	503.55	7,332.73	1,000.00	FN-2-1(6)--21-36
Joseph & Anna Melenovsky	13	11/05/76	12/07/76	6,829.69	10,778.00	7,129.69	FN-30-7(33)--21-57
Unit Step and Septic Tank Co.	159/160	12/27/76	01/17/77	44,261.98	82,228.47	82,228.47	I-380-6(25)264--01-57
David A. & Patricia M. Knuth	174	07/12/77	07/28/77	2,450.00	7,000.00	3,500.00	I-380-6(25)264--01-57

APPEALS

Name	Number	Date of Appeal	Date Appeal Held	Amount Offered	Amount Asked	Amount Awarded	Project Number
Ballenger Automotive	74	05/25/79	06/20/79	Partial Move $2,500.00	Total business Move	Total Move $29,948.00	M-1822(1)--81-78
John & Joanne Claypool	523	08/21/79	09/12/79	5,250.00	More	5,250.00	I-380-6(26)266--01-57
Dennis E. Lickteig (Residential) Lickteig & Sons (Business)	17	10/14/80	10/22/80	Rent Supplement Res. 6,000.00	115,000.00	6,000.00	F-520-6(18)--20-07
				Actual Moving Res. 1,364.00		1,464.00	
				"In Lieu" Bus. 2,500.00	25,000.00	2,500.00	

8.9(7) Administrative appeal and limitations. Any person dissatisfied with a determination by the agency's relocation supervisor as to his eligibility for a payment or as to the amount of payment offered under the relocation assistance program may have his application or his claim reviewed by the agency providing relocation assistance as in accord with this rule.

a. Persons dissatisfied with any such determination shall have 30 days, after the day the agency's relocation assistance supervisor sends notice of the supervisor's determination, within which to file a written request that the agency review the same.

b. Promptly upon timely receipt of a written request for such review the governing body of the agency shall hear and finally determine the appeal or shall appoint a review board comprised of individuals not directly involved in the agency's relocation program to make a review.

c. The governing body of the agency and any review board appointed shall inform themselves of the nature, scope, standards for eligibility and limitation of benefits and payments established by the Act and by these rules.

d. Where a review board is appointed the board shall make, note and report the necessary computations and line of reasoning used to support their findings and shall recommend such determinations to the governing body of the agency which, in its judgment, are supported by the proof required by the Act and these rules and by the evidence submitted. Similar findings shall be made, noted and reported by the governing body of the agency where no review board is established.

e. The governing body of the agency shall award to the person requesting the review all benefits and payments to the extent and in the amounts, if any, he is determined eligible within the limitations and under the terms of the Act and of these rules.

f. The person requesting the review shall be promptly notified in writing of the decision of the governing body of the agency whose decision shall be final.

8.9(8) Notice of administrative appeals. The governing body of the agency shall convene the review, or the review board shall hear testimony after sending the person requesting the review or his representative reasonable notice of the proceeding.

a. Notice of such review proceeding may be sent by ordinary mail and where practical, shall be held at a time and place agreeable to the person requesting the same.

b. The person requesting the review or his representative, and any relocation assistance officer appearing, shall have equal rights and shall have an equal opportunity to be heard.

c. No inferences or presumptions are to be indulged against either the agency, the relocation assistance officer, the review board or the person requesting the review or his representative.

d. Any testimony on the part of any person which indulges in personalities is improper.

e. The person requesting the appeal shall be promptly notified in writing of the findings and recommendations of any review board.

Frank R. Metts
Secretary

Commonwealth of Kentucky
Department of Transportation
Frankfort, Kentucky 40622

John Y. Brown, Jr.
Governor

February 8, 1982

Mr. Thomas L. Hadd
Chief, Assistance Policy Branch
Office of Management and Budget
Executive Office Building
Washington, D. C. 20501

Dear Mr. Hadd:

As a member of the International Right of Way Association's Relocation Assistance Committee, I was furnished a copy of the technical analysis on possible amendments to the Uniform Act by Howard Armstrong, Committee Chairman. I appreciate the opportunity to review and offer my personal comments on some of the major legislative issues.

I fully support most of the amendments contained in Senator Durenberger's proposed bill to amend the Uniform Act. Two of the most important and sensible changes are the substitution of "suitable"in-lieu-of "comparable" housing and the "buy-down" method of computing mortgage interest differential payments. These two changes alone will go a long way in eliminating uncessary payment windfalls to displacees.

While on the subject of "windfalls"--there is another area of the Program in particular that should be given attention--either in the proposed law or the regulation writing process. This area is the supplemental payments made to tenant displacees. The Federal Highway Administration's policy concerning the computation of this payment is, if a tenant displacee is paying higher than market rent for his residential unit, we reduce the rent to market rent. If a displacee is paying rent that is lower than market rent--including "zero" rent--and the tenant is not providing some sort of service to the landlord to obtain this lower-than-market rent--we use the actual rent being paid. I am in total disagreement with this policy because it creates "windfalls" to certain displacees and even invites fraud.

At this time I have on my desk for approval, three rent supplements where, in my opinion, economic rent should have been used to compute the payments. I will use one of these actual cases as an example:

EXAMPLE:

On a Federal-aid highway project in Louisville, Kentucky, we are acquiring a small single-family dwelling occupied by a 79 year old lady. A few years ago, the lady transferred title of this property to her daughter and son-in-law. While I do not know the exact reason for the title transfer, this is often done to avoid payment of inheritance tax, to reduce assets for medicare-medicaid eligibility purposes, etc. Therefore, this lady is not the owner of the property and pays no rent to her daughter and son-in-law. It is estimated that the fair market value of this property is $30,000. A comparable replacement rental unit will cost approximately $250 per month. Based on the fact the lady is paying no rent, the rental computation will be $250 x 48 months, or a $12,000 rental supplement. In this case, what actually happens is we are subsidizing the daughter and son-in-law. Since they have title to the property, they can invest the money they receive as the fair market value of the acquired property and draw interest for four years while we are paying the mother's rent. If economic rent was used to compute the payment in this case, the rental supplement payment probably would not exceed $1,200.

It is my recommendation that either the law or regulations should state that if the rent being paid by the tenant for the acquired residential unit is not reasonably equal to market rent, the economic rent should be used in computing the amount of the rental supplement. This recommended procedure allowing the use of economic rent would help eliminate windfalls to displacees.

The following are general comments concerning some of the other major legislative issues:

It is my opinion that private entities which displace persons using Federal assistance for public purposes should be required to provide the benefits of the Uniform Act; however, if including this would create strong opposition to the Bill by such as the Utility Lobby and would lessen the chance of passage, it should be deleted. If deleted, and the Bill is successful, an attempt could be made later to amend the Bill to require private entities to provide the benefits of the Uniform Act.

I am in agreement with raising the ceiling to $1,000 on lumpsum residential moves.

Consideration should be given to businesses receiving additional benefits under the Uniform Act. Raising the limits of the in-lieu-of payment to $20,000 will be helpful. However, I am not completely convinced that the proposal to pay the interest on any loan of reasonable duration necessary to re-establish a new business at the replacement site is what is necessary in the Program. Many businesses that are displaced are tenants and do not have the necessary collateral to obtain a loan. If it is determined that the displacing agency will pay the interest on this type loan, care should be taken to include limits on the rate of interest, duration of the loan, and the dollar amount. If these ceilings are not set, we could get into another "windfall" situation.

Care must also be taken to ensure that the displacing agency be allowed to use last resort housing when it becomes necessary to exceed the $4,000 and $15,000 limits. As you are aware, these limits have been in effect for many years and on occasion it becomes necessary to exceed the limits in order to adequately relocate displacees.

The "buy-down" method of computing the mortgage interest differential payments will cut these payments by approximately 40 to 50 percent. It is my recommendation that this payment not be limited to $5,000. After all, it is a part of a payment that already has a $15,000 limit.

It is my opinion that support for this Bill by State Highway Agencies will be lost if there is a requirement in the Bill that appeals be heard by Federal Law Judges, etc. There is a requirement by the Kentucky Department of Transportation that all appeals be recorded and the displacee furnished a transcript of the hearing, if they so desire. They are also informed, in writing, with the reasons for the determination of their appeal. If the displacee is dissatisfied with the determination, he can request a hearing in court. The solution to this would be to require all agencies to record their appeals hearings and to furnish the displacee a transcript of the hearing, as well as a written statement outlining the reasons for the disposition of the case.

Thank you for the opportunity to make these comments. I look forward to the introduction of the Bill to amend the Uniform Act.

Yours very truly,

Charles C Harper

Charles C. Harper, Assist. Director
Division of Right of Way

CCH:jjr

STATE OF MICHIGAN

TRANSPORTATION COMMISSION
HANNES MEYERS, JR.
CARL V. PELLONPAA
WESTON E. VIVIAN
LAWRENCE C. PATRICK, JR.
RODGER D. YOUNG
WILLIAM C. MARSHALL

WILLIAM G. MILLIKEN, GOVERNOR
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION BUILDING, 425 WEST OTTAWA PHONE 517-373-2090
POST OFFICE BOX 30050, LANSING, MICHIGAN 48909

JOHN P. WOODFORD, DIRECTOR

April 23, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

ACA - Amendments P.L. 91-646
S.2263

The Department is in general agreement with Senate Bill 2263 with the exception of changes in Sections 203 and 204. This Department strongly objects to the changes made in 203 (a) (1) (A), 203 (a) (2) and 204 in its entirety.

We have fully supported the declaration of policy in Sec. 201: "to establish a uniform policy for the fair and equitable treatment of persons displaced". Our Relocation Program has not provided windfalls, duplication, waste, fraud or mismanagement. We have provided displaced persons with payments to move to their second choice. The program is one of the few to provide more direct benefits with few administrative costs to the Department. With the changes contemplated in the noted Sections, relocation benefits to residential occupants will disappear. Occupants will no longer be assured that housing will be available so they will not suffer disproportionate injuries.

The removal of the program to reimburse additional housing costs is contradictory to "Special Report 192 - National Research Council" which reported on the Second Conference on Relocation and Real Property Acquisition held in July, 1980 at Reston, Virginia.

We believe it is imperative to be able to offer the displaced occupants comparable available housing and be willing to reimburse the cost to todays enlightened society. These payments are not windfalls but are fair and equitable as administered under FHWA Rules. The Department recommends:

1. Sec. 203 (a) (1) (A) not be amended.
2. Sec. 203 (a) (2) not be amended or provide for agency exception to one year rule.
3. Sec. 204 not be amended or add provisions as detailed in 204 (b) of proposed amendment.

We hope the foregoing comments will be acted on in a favorable manner. Should you require additional information or comments, please feel free to contact us.

Sincerely,

John

John P. Woodford
Director

TRUE COPY OF UNREPRODUCIBLE ORIGINAL

P.O. Box 19715
Kansas City, Missouri 64141

January 21, 1976

Mr. Jeremy Coleman
Staff Director, FRC
601 East 12th Street, Room 634
Kansas City, Missouri 64106

07-00-RW

Dear Mr. Coleman:

Attached are copies of a letter received from Mr. J. S. Augello, Co-Chairman, Association of Nebraska Acquisition and Relocation Officials, and a letter to Mr. Augello from Mr. James E. Graham, Assistant Right-of-Way Director, Iowa Department of Transportation. The subject of both letters is Relocation Appeal Procedures.

As the letters indicate, the discussion of the appeal procedures of various agencies (at the Omaha Educational Seminar) revealed widespread differences between agencies. Many of us, accustomed to simple and informal appeal procedures, were simply dumbfounded by the detailed and complicated procedures and the formal legalistic nature of the procedures developed by several agencies to handle appeals as to eligibility for a relocation payment or of the amount of a payment offer. We suggest that complicated appeal procedures resulting in a long drawn-out process are contrary to the intent of the provision of law the procedures supposedly implement. Section 213(b)(3) of the Uniform Act provides an alternate to judicial review but the procedures developed by some agencies to implement this section are equivalent to or in excess of what would be required by judicial review. Such procedures negate the intent of this provision which was to provide a means for the agencies to give prompt consideration to requests for an administrative review of payment offers or claims of eligibility for payments, to make prompt determinations with respect to such claims, and to make prompt payment of any amounts which are determined to be due to the claimant. Further, it is our opinion that such procedures appear to be designed for the purpose of eliminating any requests for a review of any determinations made by the agency with respect to a person's eligibility for a payment or the amount of a payment.

Accordingly, we concur in the recommendation of Messrs. Augello and Graham that the FRC bring this matter to the attention of the RAIC and request it review the appeals procedures of its member agencies. We recommend that the RAIC not only seek a means to bring about uniformity in appeals procedures between agencies but seek a means to require that such procedures be simple and informal in order to assure compliance with the actual intent of the law.

Sincerely yours,

James E. Abell, Co-Chairman
FRC Standing Committee

Attachment
cc: Mason Walley (w/att.)
J. S. Augello (w/o att.)

JAY B. DILLINGHAM, *Chairman*
Rm. 926, Livestock Exchange Bldg.
1600 Genessee
Kansas City 64102

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P. O. Box 31000
Des Peres 63131

MISSOURI
HIGHWAY AND TRANSPORTATION COMMISSION

ROBERT N. HUNTER, *Chief Engineer*

BRUCE A. RING, *Chief Counsel*

L. V. MCLAUGHLIN, *Ass't. Chief Engineer*

MRS. MARI ANN WINTERS, *Secretary*

P. O. Box 270
Jefferson City, Missouri 65102
Telephone (314) 751-2551

April 21, 1982

RIGHT-OF-WAY: Administration Relocation Assistance and
Real Property Acquisition Policies Bill

Mr. Francis B. Francois
Executive Director
Executive Office
444 N. Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

We have reviewed with interest your recent letter transmitting a copy of the bill introduced by Senator Durenberger to amend the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

We are generally very supportive of this legislation and believe it provides considerable improvement to the current law and interpretation of the law.

We are reviewing this legislation in detail and will be prepared to offer some comments regarding improved verbage at the Oklahoma meeting.

Very truly yours,

Robert N. Hunter
Chief Engineer

DEPARTMENT OF HIGHWAYS

TED SCHWINDEN, GOVERNOR
2701 PROSPECT
STATE OF MONTANA
HELENA, MONTANA 59620

April 22, 1982

Relocation Assistance
and Real Property
Acquisition Policies Bill
Ref: 68-GDF

Mr. Francis B. Francois
Executive Director
American Association of State
Highway and Transportation Officials
444 North Capital Street NW
Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

We feel the bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 introduced in the Senate by Senator Dave Durenberger as S. 2263 is generally acceptable. However, we share Mr. Durenberger's concern, as stated in the Congressional Record-Senate, April 13, 1982, that the bill may drastically reduce the types of programs which would remain covered.

The amendment to Section 101(4) removing from the requirements of the Uniform Act all programs where the Federal government has no direct responsibility with respect to specific site or project approval decisions possibly includes the highway program, leaving the individual states the prerogative of not providing relocation assistance, or of providing such assistance as it may choose. This would defeat the intent of the Uniform Act to provide equitable treatment for all displaced persons.

Montana has not been deeply involved in relocation and has not had many of the difficulties other states have experienced in administering the Uniform Act. We do feel the delegation of some administrative discretion to the states would be beneficial to us in dealing with numerous problems which are unique to our circumstances. We also feel the other amendments proposed in this bill will be of benefit to us.

Thank you for offering us the opportunity to comment.

Sincerely,

[illegible] for
Robert E. Champion, P.E.
Chief - R/W Bureau

REC:WS:nr:4D

25 November 1975

Mason Walley & James E. Abell
Co-Chairmen, Acquisition and
Relocation Standing Committee
Mid-Continent Federal Regional Council
Region VII
c/o U.S. Department of HUD, Fed. Bldg.
911 Walnut Street
Kansas City, Missouri 64106

Dear Mason and Jim:

One conclusion drawn from the appeals procedure portion of our recent seminar was the need for more uniformity in this area.

Jim Graham, Assistant Right of Way Director, Highway Division, Department of Transportation, State of Iowa, and I have had some discussion regarding this subject. His comments on the simplicity with which the State of Iowa handles their P.L. 91-646 appeal cases, the quickness with which they are settled, and the resulting low cost of the appeals, certainly impressed me and others at that session. Accordingly, I asked Jim if he would be kind enough to write me outlining Iowa's procedure and to submit any other data he deemed pertinent.

He agrees with me in that if there is an area of P.L. 91-646 where some measure of uniformity is needed and where the possibility of achieving it appears reasonable, it is in the area of Appeal Procedures.

I am, therefore, submitting to the Mid-Continent Federal Regional Council a formal request to review Iowa's appeal procedure and to forward same to R.A.I.C. with your recommendations for further study by them.

Sincerely,

J. S. AUGELLO
Co-Chairman
Association of Nebraska Acquisition
and Relocation Officials

Enclosure

Copy furnished:
James E. Graham

State of Nebraska
CHARLES THONE, GOVERNOR

DEPARTMENT OF ROADS
DIRECTOR-STATE ENGINEER
DAVID O. COOLIDGE

P.O. BOX 94759
LINCOLN, NE 68509-4759
402-477-6012

April 30, 1982

Mr. Francis B. Francois, Executive Director
American Association of State Highway &
Transportation Officials
444 North Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

Re: Administration Relocation Assistance and Real Property Acquisition Policies Bill

Dear Mr. Francois:

We have received the material you recently sent us regarding Senator Durenberger's proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646). Attached you will please find our comments regarding these changes.

If you have any questions, please feel free to write or call.

Very truly yours,

John G. Brinjak
Right of Way Manager
Right of Way Division

JGB:DA:N5/L7

REVIEW OF S.2363
Nebraska Department of Roads
for
American Association of State Highway
and Transportation Officials

Section 101(e). We support the change requiring the availability of "suitable replacement dwellings" rather than comparable replacement dwellings. The requirement of comparability has quite often resulted in windfalls to our displacees and the change is thought to adequately address this problem.

Section 201 (b). The statement in paragraph 6 of this section requiring coordination with other governmental agencies in cases involving the "economically disadvantaged" is supported by our agency as a cost effective measure.

Section 202 (a). Paragraph 4 of this section indicates that displaced businesses are to be eligible for a payment not to exceed $10,000.00 for "expenses necessary to reestablish." We feel that this statement is too vague in that it does not indicate eligible expenses. We also feel that a $10,000.00 maximum payment could result in windfalls to certain businesses.

Section 202 (b). We agree that the Scheduled Moving Expense Payments should be periodically revised and that the proposed change will satisfactorily provide for this.

Section 202 (c). The change regarding In Lieu of Moving Expense Payments seems to be a good one; however, the bill's reference to "eligibility criteria" is too vague. We would like to see very specific, measurable criteria developed for In Lieu Payment eligibility.

Section 203 (a). We like the concept of a waiver of decent, safe, and sanitary standards due to "unique" circumstances, but would like some guidance as to the definition of "unique."

Section 204 (b). We support the low income displacee's right to elect to receive Federal low income housing assistance in lieu of a Replacement Housing Payment. Such a policy would provide greater assistance to the displacee and result in a cost savings to our agency.

Section 204 (c). It appears that this section eliminates the need for Downpayment Supplement studies. We support the proposed change as cost efficient.

Section 205 (b). The attempt of inter-agency coordination of Advisory Services is supported.

DA/N5/01

DEPARTMENT OF AERONAUTICS
NEBRASKA AERONAUTICS COMMISSION

STATE OF NEBRASKA
DIRECTOR OF AERONAUTICS

February 11, 1982

Mr. Thomas L. Ladd, Chief
Assistance Policy Branch
Office of Management and Budget
Executive Office Building
Washington, D.C. 20501

Subject: Amendments To The Uniform Relocation
Assistance and Real Property Acquisition
Policies Act of 1970

Dear Mr. Ladd:

This Department has informally received a copy of your memorandum and attachments dated January 22, 1932, addressed to Howard Armstrong, Chairman of the Relocation Assistance Committee of the International Right of Way Association. We are advised that Senator Durenberger will introduce amendments to Public Law 91-646 in March, 1982.

Although not requested to do so, we would like to submit a few comments on the information contained in the OMB "Analysis of Major ----- Issues ------". We are generally supportive of the provisions in the Draft Durenberger Bill, as presented, and also of the recommendations in the GAO Report to Congress of March, 1978.

We definitely agree that the $15,000 differential payment provision must be revised and clarified and that differences in policies, for example between DOT and HUD in the treatment of the ceiling level must be reconciled. The same is true of the $4,000 rental differential payments.

We concur that "comparable" replacement housing should be redefined to "suitable". Our experience has included replacement comparable housing requiring the use of the last resort provision that has indeed resulted in windfall to the displacee.

We further agree the benefits to displaced businesses should be improved, particularly with respect to the small businesses.

We strongly support an amendment to require the President to issue a single set of regulations and that a non-involved agency be designated to implement the regulations. The GAO has recommended that this responsibility be placed with the OMB. OMB has responded that the GSA is the most appropriate agency for this authority. We feel that the OMB is the most appropriate agency for this function.

The OMB "Analysis -----" does not address the matter of property tax differential payments and it would appear that it is not included in the Durenberger bill. The earlier Sasser bill S.1108 contained a provision for payment of differential property taxes for a period of five years.

Nebraska Statute 76-1206 requires compensation to displaced persons for the increase of property taxes resulting from relocation, for a period of three years. HUD has treated this as an allowable cost of relocation in block grant programs whereas the FHWA and the FAA have disallowed this cost in highway and airport projects.

In 1977, attempts were made to obtain action from the FAA Central Region, FHWA Region VII and the Mid-Continent Federal Regional Council which would make tax differential payments eligible for Federal participation in DOT projects. This effort was unsuccessful and the disparity between HUD and DOT policy with regard to these tax payments in Nebraska still remains.

We believe this matter must have been considered in the OMB analysis and the drafting of the current amending bill. If the provision for tax payments is excluded because of concern for substantial increase in money outlay then at the same time it must be recognized that additional tax payments by the displaced persons do constitute a significant burden.

This Department believes that payment for increased property taxes required of displaced persons should be provided for and that such a provision is consistent with the legislative intent of the original Act to provide equitable treatment of displaced persons. We trust this matter will be given all due consideration in the drafting of the final Durenberger bill.

Sincerely,

DEPARTMENT OF AERONAUTICS

Wayne C. Andersen
Director

GEG/jmd

cc: Howard Armstrong

STATE OF NEVADA

Al Stone's office Nevada DOT phoned in comments re: S.2263

We do not believe this revision will continue to provide fair and equitable treatment for all displacees of Federal programs. We concur with the recommendations to alleviate business relocations by liberalizing those eligible benefits but do not feel it should be accomplished at the expense of the homeowners and tenants.

Additionally, consideration must be given to administrative costs to implement this amendment in policy and procedures revisions and training.

Although we feel there is a need for some changes in the present law we are basically opposed to this amendment as written.

11:20 a.m.
4-23-82
MLM

Melvin R. Lehr
Acting Commissioner

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
1035 PARKWAY AVENUE
TRENTON, N. J. 08625

April 30, 1982

Dear Mr. Francois:

Your April 14, 1982 letter to the Chief Administrative Officers and Members of the AASHTO Administrative Subcommittee on Right of Way enclosed a copy of proposed legislation which would amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. It was requested that we review the bill and provide you with any comments we might have.

Appropriate staff has closely reviewed the proposed legislation and we have found no major changes which would be impossible to implement. Consequently, we are satisfied with the bill and recommend no further changes.

Sincerely,

Melvin R Lehr

Melvin R. Lehr
Acting Commissioner of Transportation

Mr. Francis B. Francois
Executive Director
AASHTO
444 N. Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
William C. Hennessy, Commissioner

1220 Washington Avenue, State Campus, Albany, New York 12232

APR 21 1982

Francis B. Francois, Executive Director
American Association of State Highway and
Transportation Officials
444 N. Capitol Street, N.W., Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

In accordance with your request in your letter of April 14, 1982 we are transmitting herewith a copy of our testimony on the Amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1979 (S. 2263). These remarks have been submitted for the record by New York State Department of Transportation.

In general, we support the amendments and have offered some comments to improve the legislation. We trust that you will consider our comments at the Subcommittee meeting in Oklahoma City for possible inclusion in an AASHTO position on the legislation.

Sincerely,

W. C. HENNESSY
Commissioner

Enclosure

TESTIMONY
ON THE AMENDMENTS TO
THE UNIFORM RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

SUBMITTED BY
NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
WILLIAM C. HENNESSY
COMMISSIONER

SUBMITTED TO
THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

APRIL 22, 1982

COMMENTS BY
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

WE HAVE CAREFULLY REVIEWED THE PROPOSED AMMENDMENTS TO THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AND GENERALLY ENDORSE THE OVERALL PROPOSAL. HOWEVER, WE RESPECTFULLY OFFER THE FOLLOWING SPECIFIC COMMENTS FOR CONSIDERATION.

TITLE I - ELIGIBILITY CRITERIA

SECTION 101(6) - WE GENERALLY FAVOR THE EXPANDED DEFINITION OF THE DISPLACING AGENCY TO INCLUDE ANY ENTITY HAVING EMINENT DOMAIN AUTHORITY (INCLUSIVE OF PUBLIC UTILITIES), AND ALSO FEEL THAT THE "TWO TIER" ELIGIBILITY CRITERION IS AN IMPROVEMENT TO THE CURRENT LAW.

SECTION 101(7) - THIS PARAGRAPH SEEMS TO ALLOW CIRCUMVENTION OF THE ACT'S PROVISIONS WHEN THE FEDERAL FINANCIAL ASSISTANCE IS BEING INDIRECTLY PROVIDED BY GRANT OR THROUGH A COOPERATIVE AGREEMENT. WE FEEL THAT THIS MAY PROVIDE A LOOPHOLE IN THE LAW, AND SUGGEST THAT THE WORDING BE CHANGED TO REQUIRE THAT THE ACT'S PROVISIONS APPLY WHENEVER THERE ARE FEDERAL MONIES IN THE PROJECT.

TITLE II - POLICIES AND PAYMENTS

SECTION 202(A)(4) - WE FAVOR THE RE-ESTABLISHMENT PAYMENT TO BUSINESSES, BUT QUESTION WHY IT IS BEING AUTHORIZED FOR ONLY SMALL BUSINESSES. WE SUGGEST THAT THE WORD "SMALL" BE DELETED AND THAT THE PAYMENT BE EXTENDED TO ALL BUSINESSES THAT ARE REQUIRED TO RELOCATE.

ACTUALLY, THE VAST MAJORITY OF BUSINESSES THAT ARE DISPLACED MEET THE DEFINITION OF A "SMALL BUSINESS", AND THIS SUGGESTION WILL HAVE A VERY LITTLE EFFECT ON THE COST OF THE RELOCATION PROGRAM.

SECTION 202(B) - WE FULLY CONCUR WITH THE IMPLIED INCREASE IN RESIDENTIAL MOVING SCHEDULE.

SECTION 202(C) - IN THE PAST, PAYMENTS "IN LIEU OF" COMMERCIAL MOVING EXPENSES WERE PROVIDED TO ONLY THOSE BUSINESSES THAT WERE UNABLE TO SUCCESSFULLY RELOCATE. THE PROPOSED REVISION MAKES THIS PAYMENT OPTIONAL, AND ALLOWS IT TO BE MADE BASED ON THE DESIRE OF THE DISPLACEE. OBVIOUSLY, THIS WILL INCREASE THE NUMBER OF APPLICANTS AND INCREASE THE COST OF THE RELOCATION PROGRAM.

INCIDENTALLY, WE LIKE THE NEW PAYMENT RANGE ($1,000 TO $20,000) BUT SUGGEST THAT THE LAW CONTAIN CRITERIA FOR DETERMINING HOW THE AMOUNT IS TO BE ESTABLISHED. OTHERWISE, WE ENVISION DIFFERENT AGENCIES WILL HAVE DIFFERENT RULES AND INTERPRETATIONS ON THIS IMPORTANT POINT.

Section 202(a)(1)(b) - While we fully agree that the law needs to be revised to allow for a more efficient way to compute mortgage re-financing losses, we do not agree with the present proposal. Senator Durenberger's bill dated January 5, 1982 required that payment be calculated through a "buy-down" technique, and based on our experience we feel that this method should be retained in the bill's final edition. This is, by far, the most direct and efficient way to handle this payment.

Section 203(a)(2) - We dislike the last paragraph of this section as it implies that a non-DSS unit may be considered a suitable replacement dwelling for the purpose of making payment. This should be corrected to require that the payment be made only after the home is brought up to DSS standards.

Section 203(a)- As presented, we do not like this revision. We feel that tenants should be given the difference between the market rent of the acquired unit and the market (or actual) rent of the replacement unit. We do not feel that the tenant's ability to pay should be considered unless the existing rent exceeds a predetermined percentage of income (as required by current law). As for raising that percentage from 25% to 30%, we have no problem with the proposal, and agree that it is probably justified considering the recent increase in housing costs as compared to other living expenses.

Before concluding our discussion on this point, we wish to point out that we strongly oppose the Federal Highway Administration's requirement of basing the relocation payment on actual rent instead of market rent when the actual rent is lower. This procedure has been in effect since November '78, and it creates a windfall of benefits for those tenants that enjoy an unusually low rent.

Section 204(b) - We fully endorse this provision, and hope that it eliminates the double housing subsidies that have occurred since the original Act was passed. We do wonder, however, with the many agencies and programs that administer subsidies, how tight the controls will be.

Section 204(c) - We favor the proposal of limiting the downpayment allowance to the amount required to re-rent a suitable replacement dwelling.

Section 206(a) - We endorse the expanded wording of this provision and trust that it will serve to promote uniformity for employing last resort housing by all displacing agencies.

SECTION 206(B) - WE ALSO LIKE THE SECOND PROVISION WHICH ALLOWS THE USE OF OTHER FEDERAL LOW-INCOME HOUSING PROGRAMS TO MEET LAST RESORT HOUSING NEEDS. WE DO NOT, HOWEVER, FEEL THAT SUCH HOUSING SHOULD BE FORCED ON THE DISPLACEES UNLESS IT IS IN THE PRIVATE SECTOR, AND FULLY COMPARABLE (OR BETTER) TO THE ACQUIRED DWELLING UNIT.

SECTION 213(A)(3) - WE ARE STILL SOMEWHAT UNEASY WITH THIS PROVISION AS IT IMPLIES THAT THE NEWLY ESTABLISHED FEDERAL AGENCY WILL HAVE JURISDICTION FOR ADJUDICATING GRIEVANCES FOR THE BENEFITS EXTENDED UNDER TITLE II. WE SEE THIS AS A DEFINITE MOVE IN THE WRONG DIRECTION, AND URGE THAT THE STATES BE ALLOWED TO CONTINUE RESOLVING THESE DISPUTES. TO OUR KNOWLEDGE, THE CURRENT SYSTEM OF HANDLING APPEALS HAS WORKED VERY WELL SINCE IT WAS ESTABLISHED IN '71.

TITLE III - ACQUISITION POLICIES

SECTION 301(A) - THE LAST SENTENCE OF THIS PARAGRAPH SHOULD BE MODIFIED TO INDICATE THAT THE JUSTIFICATION OF THE APPRAISAL WILL BE PROVIDED AT THE ELECTION OF THE OWNER, NOT THE DISPLACEE. IN TENANT OCCUPIED PARCELS, THE DISPLACEE SELDOM HAS AN INTEREST IN THE PROPERTY'S FAIR MARKET VALUE.

SECTION 302 - YOU MAY WISH TO RECONSIDER THE PROVISION OF REQUIRING THE ACT TO BECOME EFFECTIVE WITHIN NINE MONTHS OF ITS ENACTMENT. WE UNDERSTAND THAT SOME STATE LEGISLATURES CONVENE ON A TWO YEAR CYCLE.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
RALEIGH 27611

JAMES B. HUNT, JR.
GOVERNOR

WILLIAM R. ROBERSON, JR.
SECRETARY

DIVISION OF HIGHWAYS

April 21, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W.
Suite 225
Washington, D. C. 20001

Re: Senate Bill 2363 Introduced in the Senate on April 13, 1982 by
Senator Dave Durenberger of Minnesota

Dear Mr. Francois:

In response to your letter of April 14, 1982, a copy of which was forwarded to Mr. Billy Rose, State Highway Administrator, as well as to this office, we would like to offer the following comments regarding the Durenberger bill.

Section 101 (10)-The term "suitable replacement dwelling" should be of tremendous assistance in supplying replacement housing for displacees. Comparable housing will, of course, be utilized where necessary but in those cases of large, older type dwellings, where comparability is difficult at best to locate, suitable replacement housing should allow us to offer replacement housing which otherwise might not be possible.

Section 101 (12) - We are hopeful that the "Lead Agency" would be the Federal Highway Administration. In the event this is not possible, then our preference would be either the Office of Management and Budget or General Services Administration.

Section 202 (a) (4) is added as follows: "actual, reasonable, expenses necessary to reestablish a displaced business at its new site, but not to exceed $10,000.00." The guidelines will definitely need to be established concerning this new authorized payment to prevent the possibility of windfalls to certain displacees.

Section 202 (c) will lower the minimum in lieu of payment to $1,000.00 from $2,500.00 and will increase the maximum from $10,000.00 to $20,000.00. This change in payments will be beneficial inasmuch as small businesses can still receive a fair in lieu of payment without it being excessive. Also, larger more complicated moves may be accomplished by the in lieu of payment instead of the actual cost method. Much of the success of this change will be determined by the regulations established to govern this type payment.

Section 203 (A) is amended to change the word "comparable" to "suitable replacement dwelling." This will more reasonably allow for the locating of replacement housing for a project's displacees than in the past.

Section 203 (B) allows for the changing of the calculation of the mortgage interest differential to the paydown or equal payment method. This method of calculating the mortgage interest differential will be the fairest for all concerned by not allowing a windfall payment to the displacee. This is good legislation.

Section 203 (C) (2) allows for the extension, for a good cause, of the one-year time period for the displacee to relocate to permanent housing. This should present no problem. Also, the waiving of the requirements that the replacement dwelling be decent, safe and sanitary must be with the approval of the displacing agency and due to circumstances of the displaced person. This particular change would probably not be utilized except in very unusual circumstances.

Section 204 (a) - This change will reduce the rent supplement for a tenant to $3,000.00 or the amount calculated by using the monthly housing costs for the replacement dwelling minus 30% of the displaced persons or families gross monthly income times 24. The availability of the rent supplement is accordingly being reduced from four years to two which should be adequate.

Section 204 (b) concerns the election of low income housing by a displacee in lieu of a rent supplement. We believe this election to be sound and beneficial for certain displacees who desire public housing or its equivalent.

Section 204 (c) - Since not many tenants were able to contribute much, if any, matching funds to a down payment situation, we believe the use of the rent supplement by the displacee should be used as they desire either as rent or a down payment.

Section 204 (d) - In some isolated circumstances the waiving of the decent, safe and sanitary requirements for the displaced dwelling could be beneficial; however, not on a regular basis.

Section 205 (e) - Hopefully, no conflict would arise concerning two agencies being involved in a single project where a determination would need to be made by a third party to determine which of the agencies would handle the relocation for the project. There could be some conflict depending upon the agencies involved.

Section 301 (2) - We agree with this change in allowing a donation or voluntary sale up to $700.00 without an appraisal. However, it is suggested that this amount be increased to $1,000.00.

Section 401 - It is recommended that the effective date be placed 18 months from the date of enactment of the act. This will allow states whose legislatures may have just completed a session to have ample time to have their state law amended and rules and regulations revised to meet the new law requirements.

Please keep in mind that these comments have been made rather hurriedly. After discussion of the bill at the Oklahoma meeting and further review by our staff, we may desire to forward additional comments.

Sincerely,

C. J. Baldwin

C. J. Baldwin
Manager of Right of Way

CJB:lr

cc: Mr. Billy Rose
Mr. W. F. Caddell, Jr.
Mr. Robert E. Scott
Mr. W. D. Moon

north dakota
state highway department, capitol grounds, bismarck, nd 58505

ALLEN I. OLSON, GOVERNOR
DUANE R. LIFFRIG, COMMISSIONER
RAY ZINK, CHIEF ENGINEER

April 23, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street NW, Suite 225
Washington, DC 20001

ADMINISTRATION RELOCATION ASSISTANCE
AND REAL PROPERTIES ACQUISITION POLICY BILL

Your letter of April 14, 1982, asks for comments from the state relative to the above noted subject and designated as S. 2263.

With reference to Title II, Section 201(a)(1), North Dakota has concerns relative to the possible definition of the word "demolition" regarding the definition of a displaced person. We feel that the word "demolition" is too ambiguous and too far reaching. We would like to see the word "demolition" changed to reflect the more specific meaning rather than its use as perhaps an all inclusive term which could merely lead to disagreement and possible litigation.

With reference to Title I, Subsection 12, we would express our concerns as to which agency might be designated as lead agency by the President. We do believe that uniformity among all agencies is desirable in relocation assistance programs; nevertheless, one chosen lead agency may feel compelled to promulgate rules, regulations and guidelines to fit its own particular function rather than consideration being given to a different agency's concern. In that regard, we would suggest that a committee from the different agencies be convened to develop uniform guidelines.

Thank you for the opportunity to comment on this matter.

Ray Zink

RAY ZINK - CHIEF ENGINEER

30/REK/rkp

May 7, 1982

Francis B. Francois
Executive Director
American Association of State
  Highway & Transportation Officials
444 North Capitol Street, N.W., Suite 225
Washington, D.C. 20001

OMB REGULATORY REVIEW OF UNIFORM RELOCATION ASSISTANCE
AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

In response to the April 16, 1982, letter from Mr. Francois pertinent to the above noted subject are listed North Dakota's responses.

UNIFORM ACT - TITLE II

I. Administrative Procedures

   A. Different Definitions of Terms - This has never resulted in a problem for the Highway Department. We deal with only FHWA terms and definitions which in most cases are clearly defined in their guidelines.

   B. Advisory Services - We have always taken the position to use as many and varied types of services that are needed to satisfy the relocatee. Besides the normal assistance in explaining the program, finding replacement sites, preparing claim documents, etc., it may be necessary to provide an individual with other services and bring into play other agencies including SBA, ADC, Social Security, Social Services, etc. We have in the past hired an interpreter when dealing with deaf mutes. I do not see how a certain level of services could be made a part of regulations.

C. We have never been involved where two or more federal agencies funded a single project. We have assisted our State Parks Department on projects where relocation was necessary, however, we have always followed FHWA guidelines even though the funding may have come from another federal source. This seems to have worked well to everyone's satisfaction.

D. Assurance Requirements - Believe that one statewide assurance should be adequate rather than an assurance incorporated into each relocation plan submitted.

II. Computations of Payments

A. Triggering of Last Resort Housing - Under FHWA regulations when housing additives exceed the maximum of $15,000 homeowner or $4,000 tenant then Last Resort Housing is in place. This creates several problems as these figures cannot sometimes be determined until late in the project. Maybe only comparables will trigger this action or when figuring mortgage, differential payments will increase housing additives over the maximum limits. Another states that Last Resort Housing will be programmed as a separate item. This has cost the state to lose federal funding.

B. Eligible Moving Expenses - We have generally tried to work closely with the appraisal section on business moves to determine those items of realty and included in appraisal and those items that would constitute personality. Not too many problems have occurred.

C. Trigger Dates for Eligibility - We have not had a problem in this area as most all relocatees of this state are of a long tenure of occupancy. I can see where a more fluid population with people constantly on the move could create some problems.

TITLE III - SECTION 301

III. Title III Acquisition

A. The law should mandate an appraisal review process. This would ensure uniformity among agencies and uniformity among appraisals. FHWA has recognized the need for appraisal review. This is set forth in FHPM Volume 7, Chapter 3, Section 3, Review of Appraisal and Speciality Reports. This is the form the regulations should take.

The North Dakota State Highway Department Chief Review Appraiser reviews all appraisals prepared by all state agencies which use federal funds. If it were not for this review process, these appraisals surely would be open to criticism for misuse of federal funds, fraud, and abuse, if they were audited by GAO. Since the governmental subdivisions concerned must acquire the property and pay for the appraisal, they usually try to get by as inexpensively as possible. This usually involved hiring an individual with little or no appraisal experience and definitely no experience with federal rules and regulations. This usually results in a report that if used by the acquiring agency would be fraudulent.

B. This section is vague, difficult to understand and implement with consistency. Some of the confusion concerning this section is the fault of the FHPM. This section is in Volume 7, Chapter 2, Section 1, which deals with acquisition. It should be in Chapter 3, Section 2, which deals with appraisals or at least make reference to.

C. There needs to be uniformity of appraisal standards. As mentioned in Paragraph A, the Chief Review Appraiser reviews all appraisals for state agencies that use federal funds. The individuals administering these programs know very little, if anything, about appraising real estate. They have come to rely on the expertise of the State Highway Department and their appraisal standards.

D. North Dakota concurs in the thought that administrative settlements of acquisition cases must be handled carefully so that there is not an imbalance in the prices paid for rights of way of the same general characteristic. Proper justification either by reappraisal or analysis of previous condemnation awards by courts can be an effective guideline. However, care must be taken that overpayments resulting in a windfall do not result. North Dakota has made good use of administrative settlements over a period of years and we concur that reasonable guidelines with certain flexibilities should be prepared.

E. The summary statement of just compensation to the property owner has not caused a real problem in this state. We have always broken down that summary statement to a minimum of land, physical improvements, and other damages such as severance. Our past legislative session enacted a statute which requires North Dakota to furnish the property owner with a copy of the approved appraisal report, if he so requests. As a result of this, we now offer freely a copy of the approved appraisal report to each property owner. We feel that this well covers the "and summary of the basis for" requirement.

ROBERT E. KING - RIGHT OF WAY ENGINEER

sas

xc: E. J. Zelasko

OHIO DEPARTMENT OF TRANSPORTATION

James A. Rhodes/Governor
25 South Front Street
P.O. Box 899
Columbus, Ohio 43216-0899
David L. Weir/Director

April 21, 1982

American Association of State
Highway and Transportation Officials
444 N. Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

Attention: Mr. Francis B. Francois
Executive Director

Dear Mr. Francois:

Following are the comments by the Ohio Department of Transportation on the proposed Senate Bill 2263. These comments were verbally given your office Wednesday, April 21, 1982.

Section 101(a) 101(1)

The State of Ohio agrees with this change.

Section 101(b) 101(3)

It is assumed that acquisitions of land to be used as replacement for lands acquired from Public Utilities will still be governed by this act.

Section 101(c) 101(4)

It is assumed that this paragraph refers to CDBG (Community Development Block Grant) Small Cities Program. However, if displacement is caused the act would apply.

Section 101(d) 101(6)

Needs clarified - if there is no acquisition what causes displacement?

Section 101(e) 101(10)

State of Ohio totally agrees.

101(11)

State of Ohio totally agrees.

101(12)

If the term "Lead Agency" means that regulations will be the same for all agencies, Ohio totally agrees.

Title II

Section 201 201

Again it is assumed that these amendments are to cover the small cities programs that are being taken over by the States.

Moving and Related Expenses

Section 202 202(a)

The State of Ohio has for years felt that business move benefits should be improved. We question whether this benefit can be used to enhance the realty in the replacement to meet code requirements.

202(b)

It is assumed that this section refers to the residential move schedule. If so, we approve.

202(c)

The State of Ohio agrees with the proposed minimum and maximum amounts and with the elimination of rental property from this payment.

Replacement Housing for Home Owner

Section 203 203(a)

(1) The State of Ohio agrees with the change to "suitable replacement dwelling."

(2) We believe the buy down method to be very good. We do question the procedure if the acquired dwelling has outstanding more than one mortgage and at a different rate of interest.

(3) The State of Ohio has taken the position (to no avail) for years that an original occupant should not be given a windfall payment because of property management.

Replacement housing for tenants and certain others

Section 204	204(a) -	Agree - No comment
	204(b) -	Agree - No comment
	204(c) -	Agree - The previous matching requirement for amounts over $2,000 only contributed to unnecessary paperwork.
	204(d) -	Agree - No comment

Relocation Assistance Coordination and Advisory Services

Section 205(a) - Ohio has had some success with obtaining priority on public housing. Inclusion of the provision should enhance that success.

205(b) - Agree - Provision will serve to expedite clearance of projects

205(e) Agree - If basic procedures are established by a lead agency, the problem, as noted, should not occur.

Housing Replacement by Federal Agency As Last Resort

Section 206(a) - Previous interpretation of the section created a virtual nightmare administratively. It has been our experience that housing has always been available but the additive offer based on that housing exceeded the statutory limit. Quite naturally, the displacees took advantage of the "super payment" and bought a replacement dwelling of their choice, which utilized all of the additive. Had such additive not been available, less expensive housing would undoubtedly have been secured. Restriction of payments to statutory limits is a must

Section 206(b) - Agree - However, the use of public housing may not be practical in many cases.

Federal Share of Cost

Section 207

211(a) No comment
211(b) - Agree

Administration - Section 208

212 - No Comment

Regulation and Adjudication - Section 209

213 - Agree - Eliminates previous law language which permitted each agency to promolgate its own regulations. Establishment of a lead agency should eliminate conflicts between agencies.

Transfer of Surplus Property- Section 211

218 - Good

Repeals Section 212 - No comment.

Real Property Acquisition

Section 301(a)

301(2) - Agree - The intent is economically sound

Section 301(b)

301(9) - Agree - However, a buyout could result in the State holding a considerable amount of excess land, tax exempt, which would result in a decreased tax base for the county.

301(c) - No comment.

301(10) - No comment

301(11) - No comment.

Thank you for the opportunity to review and comment on the new proposed legislation.

Very truly yours,

D. W. Billingsley
Assistant Deputy Director
Real Estate Administration

DWB:GDC:kw7

STATE OF OKLAHOMA
DEPARTMENT OF
TRANSPORTATION

200 N. E. 21st Street
Oklahoma City, Oklahoma 73105

You're doin' fine, Oklahoma! 75 1907 Diamond Jubilee 1982

February 19, 1982

Mr. Gerald A. Fill
Assistant Policy Branch
Office of Management and Budget
New Executive Office Building
Washington, D. C. 20503

Dear Jerry,

It is indeed a pleasure to provide you with the following comments concerning many of the major legislative issues being considered by the Office of Management and Budget in the technical analysis of possible amendments to the Uniform Relocation Act. For your convenience, my comments will be in the order listed in your legislative analysis.

1. Expansion of definition to involve all with eminent domain rights- any authority with the right of eminent domain should be required to comply with the provisions of the URA as long as federal funds participate directly in the acquisition of real property and/or contributed in a major way in the construction cost of a project for which real property was acquired. The involvement of federal funds indirectly in a project (i.e., research and development, monitoring, etc.) should not require compliance with the URA. I believe the key to the application is, does a utility project or plant benefit the public? If so, those who must move or sell their property should be protected by the URA.

2. Expansion of definition to involve non-acquisition projects- Although my involvement and knowledge of the problems related to the non-applicability of the URA to non-acquisition projects is limited, I do not believe the URA should attempt to deal with this issue. Displacement as a result of code enforcement, rehabilitation or demolition presents an entirely different set of circumstances to be dealt with than exist in acquisition related displacement.

3. Displacement must be directly caused-I fully support this concept. Any attempt to encompass indirect displacement would result in a completely unmanageable program, to say nothing of the excessive cost.

4. Increasing moving expense limits - a) I support raising the residential schedule to $1,000. Due to various geographical differences and other fluctuations, I would recommend the division of this payment between the moving allowance and dislocation allowance be established by the displacing agency. b) I support the revised ceilings for the "in-lieu" payment to a minimum of $1,000 and a maximum of $20,000. In fact, I believe you could go one step further by reducing the minimum to $-0-. c) I support the establishment of a payment of up to $10,000 to help a business re-establish. I do not believe such a payment should be restricted to small businesses as the expense of remodeling and re-establishment is applicable to all businesses.

5. Formula for computing mortgage interest differential payment- I fully support the "buy down" method for computing the mortgage interest differential payment. The "buy down" method will save a great deal of money as well as provide a fairer method of compensating the displacee for the increased cost incurred. HOWEVER, as favorable as the "buy down" method is to the displacee and the displacing agency, it will not work if a $5,000 ceiling is established. It should be remembered the additional cost incurred because of higher interest rates is an involuntary expense. It would be grossly unfair to force a homeowner to involuntarily incur this expense regardless of the "windfall" received as a result of a higher mortgage interest tax write off. If this is a real problem, perhaps a formula could be developed whereby a portion of this entitlement would be subject to taxation. The "buy down" method will save money - do not minimize the importance of this savings by imposing a $5,000 limit.

6. Exceeding payment ceilings of $15,000 and $4,000-Some provision must be made to exceed the $15,000 or $4,000 ceiling when necessary. Our relocation program utilizes the ability to exceed these ceilings when comparable housing is available on the market, but the difference in cost (either purchase or rental) exceeds the ceiling. For example:

An owner-occupant is being displaced from a 2,000 sq. ft. home valued at $40,000. Comparable (or even suitable) housing is available on the market for $60,000. In this case the supplemental housing payment is $20,000. If the displacing agency were to construct a replacement dwelling the cost would be $80,000 ($40 sq. ft. x 2,000 sq. ft.). This would require the displacing agency to spend $40,000 or $20,000 more than the cost of utilizing existing housing.

We would not pay more to a displacee in order to utilize existing housing than the cost would be to construct new. Another point to consider is that if a $15,000 ceiling is to be strictly observed, I believe the rate of condemnation of owner-occupied properties will dramatically increase. This will not only cost the displacing agency additional cost for legal assistance but will result in greater time required to complete the acquisition and relocation process. From our experience I believe the lack of full relocation benefits at the outset will eventually be given by the courts. Relocation benefits are a key element in being able to negotiate for the acquisition of property. I would encourage you to adopt language that would allow the displacing agency to evaluate the best method (economically and practically) of providing housing to displacees within their financial means.

NOTE: Page 11-1 of HUD Handbook 1376.1 (Relocation & Real Property Acquisition, dated September, 1979, does provide that last resort housing can be used when"...(2) a replacement housing payment in excess of the limits set forth in subparts F ($15,000) or G ($4,000)..."

7. Use of public housing as replacement for tenants-I support the option of utilizing other federally sponsored programs to reduce the impact and cost of displacement.

8. Lead Agency concept-A great deal has been said about the only thing uniform about the Uniform Act is the title. Much of the differences resulting from the various federal agencies regulations comes about from their perceived mission. I believe many of the horror stories resulting from the lack of a lead agency are somewhat exaggerated. If a lead agency is developed, I hope each implementing agency (FHWA, HUD, Corps, etc.) would not be able to expand on the regulations issued by the lead agency. From our vantage point, the bureaucracy within the federal government is already too stifling. To avoid the influence of one agency or another, I recommend the lead agency be placed with OMB. In addition, I also recommend a great deal of reliance be placed on the state and local agencies to develop and administer the new regulations and the Office of Uniform Relocation Assistance Policy Development and Coordination.

9. Appeal process in compliance with the federal Administrative Procedures Act-I do not believe the problem of some agencies (particularly Federal) not providing the displacee with a judicial appeal process is sufficient to warrant compliance with the Administrative Procedures Act. A legitimate and fair appeal process can be implemented

through the regulatory process. Compliance with the APA will not only create lengthy delays but will dramatically increase cost to the displacing agency with little if any additional real benefit to the displacee. Many fair appeal programs are in place at the state and local level. Compliance with the APA makes the cure worse than the problem.

10. Federal compliance with state eminent domain procedures-Although this is not a problem to us at the state level, I believe this would be another way to eliminate confusion which exists when the "government" (whether it is federal or state) acquires land. I like what I've seen of H.R. 5099 introduced by Representative Kogouser on this matter- I'm sure many at the federal level do not.

Other issues which I endorse are the waiving of matching requirements for tenants who elect to purchase and also the adoption of the definition of suitable in-lieu-of comparable. Both of these will eliminate significant problems with the existing law and yet will serve to make the relocation program more equitable to all involved.

One additional item I briefly discussed with you during our meeting on February 4, 1982 was a fairly radical departure from the present method of computing a rental supplement payment for a tenant.

Section 204 of the URA provides the rental subsidy payment is..." an amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a D. S. & S dwelling.." The key is, not to exceed four years. All displacing agencies utilize the full four years as a basis for computing the rental payment regardless of the length of occupancy by the tenant (beyond the minimum 90 days). For example: A tenant in occupancy four months prior to the offer lives in a unit renting for $150.00 per month. Comparable housing is available for $200.00 per month. The rental supplement payment would be $2,400 ($50 x 48 months). A tenant in occupancy for forty-eight months prior to the offer lives in a unit renting for $150 per month. Comparable housing is available for $200 per month. The rental supplement payment would again be $2,400. Something you may wish to consider is a rental payment based in part on the actual length of occupancy prior to the offer not to exceed forty-eight months. To illustrate this using the previous examples, the tenant in occupancy for four months would receive a rental supplement of $200 ($50 x 4 months) while the tenant in occupancy for forty-eight months would receive the full $2,400 payment. To further illustrate the savings of this procedure, I reviewed our rental supplement payments to 149 tenants during the last two years on an interstate project in Oklahoma City. Using the existing method of computing, we paid $1,107,355.56 for rental payments. Using the proposed method of computing based on length of occupancy we would have paid $805,914.81. This would have saved $301,440.75, 90% or $271,296.68 of which is federal funds. The savings are rather substantial, yet the principle of fairness and equity are met by fully compensating a tenant for what interest they have in the property to be acquired. If you would like further information of this proposed procedure, let me know.

Jerry, once again let me reiterate that on the whole, most of the issues look good. Some of the language in the draft may need to be clarified to eliminate any confusion about the more technical issues. You and the others who have worked on this project are to be congratulated for your grasp of an often confused program. The Uniform Relocation Act has worked and we look forward to improving it. I trust this information will be of assistance to you. If I can clarify any comments further, please let me know.

Sincerely,

W. Howard Armstrong
Assistant Chief
Right-of-Way Division

WHA/sl

February 26, 1982

Mr. Thomas L. Hadd
Chief, Assistance Policy Branch
Office of Management and Budget
Executive Office Building
Washington, D. C. 20501

Right Of Way Division

Dear Mr. Hadd:

As requested by Howard Armstrong, I have reviewed your technical analysis of the proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Under separate cover (received shortly after Howard's request), I obtained a revised edition of the Bill which I assume is a more recent version.

I had the pleasure of attending a meeting last August together with several other State Relocation Administrators (including Howard) with James Powell and Paul Hewitt of the Subcommittee on Intergovernmental Relations, and I was pleased to see that a number of our thoughts had been incorporated in the revised Draft. I do, however, feel that a couple of additional changes need to be made.

Of primary importance, I question the necessity of having grievances relating to the benefits under Title II of the Act be adjudicated in accordance with Administrative Procedures Act of 1947 as is required under paragraph (b) (3) of Section 213 of the revised Draft. This requirement will prolong the appeal process, and may cause inordinate delays with construction scheduling. It also improperly transfers the responsibility for making the final decision for appeals to the federal level when the State (or acquisition agency) has to make the payment. I do not concur with this proposal and recommend the final decision concerning eligibility and payment of relocation payments remain with the acquisition agency.

I also question, but to a much lesser degree, the added flexibility for determining eligibility and payment amount for the allowance "in lieu of" moving expenses (paragraph (c) of Section 202). While I wholeheartedly endorse the proposed payment range ($1,000 to $20,000), I feel the former eligibility and payment computation criteria should be maintained. The suggested criteria are too flexible, will allow a myriad of interpretations, and will serve to exacerbate the lack of uniformity.

My final concern relates to final sentence in paragraph (C) (2) of Section 203. In the past we have frequently allowed displaced owner occupants the option of purchasing an older or non-DDS residence (i.e.; a camp) and to then fix-up the home to meet DSS standards and to apply for relocation allowance as the improvements are made. I trust that this option is not to be prohibited, but question the wording..."Where it is the intent of the displaced person to acquire a replacement dwelling that is other than decent, safe and sanitary for the purpose of rehabilitating such dwelling, the dwelling is a suitable replacement dwelling for purpose of this Section." I hope that this does not mean that the replacement residence, as purchased, qualifies as a suitable replacement dwelling, and that no additional expenses to improve it will be considered.

Other than these issues, I have no significant suggestions for improving the Bill, and feel that it addresses all major relocation issues. In general, we in New York are quite pleased with Senator Durenberger's Bill and feel that it will dramatically improve our relocation program.

If I can be of further assistance in this regard, please advise. And in closing, please accept our appreciation for allowing us the opportunity to comment on this important issue.

Sincerely,

JOSEPH A. FOGARTY
Assoc. ROW Agent
Property Services Bureau

JAF:dj

cc: W. Howard Armstrong, Relocation Assistance Committee
Assistant Chief Right-of-Way Div.
Oklahoma Dept. of Transp., 200 N. E. 21st St., Oklahoma City, Oklahoma 73105

P.S. to Howard:

I hope this agrees with and supports the comments of the other committee members, and I look forward to receiving copies of their replies. Incidentally, if an agenda is available for the AASHO Meeting in late April, I would like a copy.

Best Regards,

JAF

STATE OF OKLAHOMA
DEPARTMENT OF
TRANSPORTATION
200 N. E. 21st Street
Oklahoma City, Oklahoma 73105

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February 26, 1982

Mr. Gerald A. Fill
Assistance Policy Branch
Office of Management & Budget
New Executive Office Building
Washington, D. C. 20503

Dear Jerry:

As a follow up to our conversation on February 26, 1982 here are my comments concerning the February 18th version of possible amendments to the Uniform Relocation Act.

At the outset, please do not think the number of critical comments reflect on my support of the amendments. I hope some of the concerns listed will provide you and the others with additional ideas as to how the amendments can be strengthened. I'm sure by now you are aware of the wide divergence of opinion as to what should be in the law and what should be regulatory; and what should be administered at the federal and at the state level. It will be difficult to make everyone happy, however, it should be all of our objectives to refine a good program with reasonable and just improvements. Enough of my preaching!

I'll be skiing in Colorado the week of March 1, however, should you need to be in contact, I will be calling the office occasionally. In any event, I'll check back with you on March 8, 1982.

I do appreciate the opportunity to submit this information to you and look forward to our continued efforts on this matter.

Sincerely,

W. Howard Armstrong
Assistant Chief
Right-of-Way Division

Attachment

COMMENTS ON OMB DRAFT BILL (2/18/82)

UNIFORM RELOCATION ACT

1. Page 5, Section 202(a)(4) - I endorse the reestablishment payment of up to $10,000. However, the payment should be applicable to all businesses. The application of this payment only to small businesses seems inconsistent with the "Declaration of Findings and Policy" statement found at the top of page 4. Reestablishment expenses are incurred by small and large businesses, therefore eligibility for this payment should apply to all.

2. Page 5, Section 202(c) - As now worded, the business or farm operation elects to receive the "in-lieu of" payment; the displacing agency determines the amount of the payment (within the $1,000 to $20,000 limits). If the intent is to make the payment optional then this language accomplishes that. If the intent is to make this payment applicable to those businesses that can not relocate, then some guiding criteria ought to be placed in the Act.

   If the "in-lieu of" payment is to be optional, I recommend the minimum be reduced to $0 with the maximum left at $20,000.

3. Page 6, Section 203(b) - The language contained in the 1/3/82 draft concerning the "buy down" method should be reinstated. From my years of computing mortgage interest differential payments, I have not found a better, more equitable method than the "buy down" method. The "buy down" method insures the owner-occupant does not involuntarily incur additional financial assistance and at the same time protects the displacing agency from paying "windfalls" which result under the existing method. In as much as no other method can insure this fairness and equity, it ought to be incorporated into the legislation.

   The "buy down" method is one of the strongest attributes of the legislation. Please do not leave this up to the regulation writers to implement this method.

4. Page 6, Section 203(2) - The first sentence of this section indicates the various replacement housing payments for the homeowner are paid when a replacement dwelling is purchased and occupied within one year. The requirement that the replacement dwelling must be decent, safe and sanitary is absent, yet the displacing agency is required to compute the supplemental housing entitlement based on a suitable dwelling, which by definition must be decent, safe and sanitary. The cost of computing the supplemental housing payment based on housing which is decent, safe and sanitary

is one of the primary factors for large payments. If the displacee is not required to purchase decent, safe and sanitary housing, the displacing agency should not be required to compute the entitlement based on housing meeting those standards.

I would recommend a revision be made to the first portion of this section as follows:

> "(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe and sanitary dwelling within one year... for good cause. The head of the displacing agency may waive the requirement that a suitable dwelling be decent, safe and sanitary for good cause, due to the unique circumstances of the displaced person. If such period is..."

5. Page 6, Section 203(2) - The last sentence of this section indicates a displacee need only to intend to acquire a replacement dwelling for the purpose of rehabilitating in order for such dwelling to be considered a suitable replacement dwelling. If this is interpreted literally, a very big loop hole will exist. Perhaps the intent could be carried out by the revision mentioned in comment 4 (above). I agree with the idea of flexibility with the decent, safe and sanitary requirement when warranted, but this should be left up to the displacing agency - not the displacee.

6. Page 7, Section 204(a) - As a preamble to my discussion of this section, I would like to reiterate the comments contained in my letter of February 19, 1982, whereby the supplemental rental payment based in part on the number of months the displacee was in occupancy prior to the initiation of negotiations to acquire, not to exceed four years. For example:

> "Such payment shall consist of the amount necessary to enable such person to lease or rent a suitable replacement dwelling for a period based on the number of months in lawful occupancy prior to the initiation of negotiations to acquire the displacement dwelling not to exceed four year."

This method of computing the rental entitlement compensates the displacee fairly for their "interest" in the acquired property while it minimizes the burden on the displacing agency to subsidize the displacee for what is usually longer than the "typical" tenant would have remained in occupancy. The example contained in the February 19th letter is attached.

If the above is not possible, you might consider requiring a tenant and certain others (short term owner-occupants) to be in occupancy for 180 days prior to the initiation of negotiations to acquire. This would be consistent with that required of an owner-occupant and would serve to minimize the payment of such benefits to those who attempt to remain one step ahead of the bulldozer.

7. Page 7, Section 204(a) - The proposed method of computing the supplemental rental payment on the displacees ability to pay rent ("(1) 30 percentum of the displaced person's gross monthly income") has merit, especially in those instances when a tenant is paying less than market rent for a dwelling. However, a potential problem exists when a tenant may be required to pay 30 percentum of the gross monthly income, yet in reality the displacee does not have that much disposable income to commit to housing cost. If this situation did occur, potential problems exist as to how assurances of suitable replacement housing can be given, which by definition must be "affordable" to the displacee. For example: A displacee with a gross income of $1,000 per month, with 5 dependents probably could not afford a housing payment of $300 per month.

8. Page 7, Section 204(a) - The definition of "monthly housing cost" as used in this section would be easy to determine for the displacement dwelling utilizing historical data provided by the displacee. However, this same definition is to be applied to a replacement dwelling which would require the displacing agency to project the cost for utility charges. This could present a potential problem in being able to properly compute a supplemental rental payment.

9. Page 7, Section 204(b) - This section provides a method to insure that a displacee does not receive relocation benefits and Federal low income housing assistance payments concurrently. I endorse this objective, however, I wonder if consideration has been given to a control system which must be established to insure this provision is adhered to. It could be rather difficult for a highway department to make this information available to the administrators of the numerous housing assistance programs which exist at the local level throughout the state or housing assistance programs in another state.

10. Page 8, Section 204(c) - I endorse the idea of eliminating the matching requirement for a tenant who elects to make a downpayment and also the provision which allows the payment to offset the increased rental to be used for either rental or purchase of a replacement dwelling. Perhaps one class of displacees overlooked

in this section are the owner-occupants of less than 180 days. Since these people are already owners it is likely that they will desire to relocate as owners. Yet the payment they would receive is computed as if they were renters utilizing what their existing dwelling would rent for (economic rent).

One way this could be remedied is to require all displacees be in occupancy for 180 days prior to the initiation of negotiation. (see comment 6). If this is not possible, perhaps additional language should be inserted for the short term owner occupants to the extent that their entitlement would be computed based on the downpayment necessary to acquire a suitable dwelling. As with the tenant, the short term owner-occupant could elect to use this entitlement to purchase or to rent.

11. Page 9, Section 205(e) - As a matter of interest, I have doubts as to why this section is necessary if the lead agency is to promulgate rules to carry out this Act for all to follow. I believe you will receive considerable discussion of this item from administrators (at the state and local levels) who will be extremely reluctant to give up "control" of their project.

12. Page 13, Section 301 (2) - The last sentence provides "at the election of the displacee, the owner or the owners representative shall be provided with a justification of the approved appraisal made under this paragraph."

    The presence of the word "displacee" implies that a tenant who had no legal claim to the just compensation for the real property could request a justification of the approved appraisal. The tenant "displacee" has no need for this information and should be removed.

    The word "justification" is confusing. Is this intended to mean a summary statement as presently issued by highway agencies?

13. Page 14, Section 302 (SIC) - The Act will take effect nine months from the date of passage. Depending upon the time of year Congress passes the Act, it may be somewhat difficult for many state legislatures to enact enabling legislation.

    Also, shouldn't the reference to the Act refer to 1982, not 1970?

    On a more positive note, the following areas are very good.

14. Page 3, Section 101(10) - Utilization of suitable instead of comparable.

15. Page 4, Section 201 (b) - The declaration to minimize regulations and to delegate additional responsibilities to the States. Contrary to what you have heard from many at the Federal level, the States are capable of controlling their own destiny.

16. Page 5 Section 202 (b) - The elimination of the maximum for the moving expense and dislocation allowance.

17. Page 6, Section 203 (B)- Do not forget to put the "buy down" method back in this section.

18. Page 10, Section 206 (a) - The positive language which allows the States to develop standards for the implementation of this section on an equal basis.

19. Page 12, Section 213(3) - The elimination of the requirement to comply with the Administrative Procedures Act for Title II grievances. Also, the requirement to make federal acquisition comply with state law.

W. Howard Armstrong
Assistant Chief
Right-of-Way Division

WHA/sl

STATE OF OKLAHOMA
DEPARTMENT OF
TRANSPORTATION
200 N. E. 21st Street
Oklahoma City, Oklahoma 73105

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May 4, 1982

Mr. Francis B. Francois
Executive Director
American Association of Senate Highway
and Transportation Officials
444 N. Capitol Street, N. W., Suite 225
Washington, D. C. 20001

Dear Mr. Francois:

RE: Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982 (S. 2383 and H.R. 6171)

In response to your letter of April 14, 1982, we are pleased to provide you with the following general comments concerning the above referenced legislation now pending in Congress.

As evidenced by our testimony at the Senate Subcommittee hearings on April 22, 1982, we generally support the legislation with few exceptions. Our support lies in two key areas: 1) the substantial delegation of administration discretion to state and local governments, and 2) the revision to various entitlement provisions of the Uniform Relocation Act.

While we endorse the objective of the legislation, we are concerned with the proposed exemption of block grant programs and the 30% of income limitation for the rent supplement entitlement. As proposed, both of these amendments would greatly diminish the overall effectiveness of the legislation.

As evidenced by the discussion at last week's Right of Way Conference in Oklahoma City, it is apparent to us that a vast majority of the states represented are supportive of this legislation. We urge AASHTO's endorsement of this effort in the forthcoming hearings by the House Public Works Committee as well as the continuing deliberation by the Senate.

If we can provide you with any assistance or information concerning the various technical issues of this legislation, we would be happy to do so. Thank you again for the opportunity to provide these comments.

Sincerely,

Gaylund Adams
Assistant Director
Land Acquisition

GA:WHA:mh

STATE OF OKLAHOMA
DEPARTMENT OF
TRANSPORTATION
200 N. E. 21st Street
Oklahoma City, Oklahoma 73105

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May 7, 1982

Mr. Francis B. Francois
Executive Director
American Association of Senate Highway
and Transportation Officials
444 N. Capitol Street, N. W., Suite 225
Washington, D. C. 20001

Dear Frank,

RE: "Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982" (S. 2563 and H.R. 6171)

At the AASHTO Right of Way Conference a great deal of discussion was held concerning the above legislation now pending in Congress. While we believe the majority of those in attendance strongly support the legislation, there is one particular issue dealing with the computation of rent supplement entitlements which nearly everyone objected to.

We understand several states have expressed in writing their concerns to AASHTO and also their comments to the Senate Governmental Relations Committee. Since this amendment does involve very technical procedural items, we have prepared the attached analysis which may be useful to AASHTO, particularly in view of the upcoming House hearings.

We will be more than happy to provide you with whatever additional information or comments which will be useful to AASHTO's consideration of this important legislation.

Sincerely,

R. A. Ward
Director, Chief Engineer

RAW:GA:mh

Encl.

ANALYSIS OF AMENDMENTS TO SECTION 204(a)

The proposed amendment to Section 204(a) (Page 10 line 19-25 and page 11 line 1-14 RE: 5.2363) provides for the method of computing the rental supplement payment for displaced tenants.

We do not have any objections to the computation being based on the difference in rental cost for a twenty-four month period not to exceed $3,000.00. Our objection is with a further limitation being imposed based on the lesser of $3,000 or 30% of the displacee gross monthly income.

The 30% limitation (known as the "ability to pay concept") will not only impose greater administrative burdens on the States to accurately verify a displacees income, but will impose increased financial burdens on various levels of displacees who may not be able to afford housing cost of 30% of their gross monthly income. The displacee may have financial obligations which preclude the ability to pay 30% of the income in rent regardless of what the federal government believes an individual ought to be able to afford.

We would support the removal of the 30% ceiling from Section 204(a) which would leave the rental supplement payment based solely on the increased rental cost for a twenty-four month period, not to exceed $3,000. If some sort of ability to pay concept must be developed, it should be left to the lead agency to develope appropriate regulations.

Example of computation method as proposed by Section 204(a) amendment:

Gross monthly income of a displacee is $1,000
x 30%
Amount displacee has "available" for rent $ 300

Cost to rent a suitable displacement dwelling is $250.00
Cost of rent for present dwelling is $200.00
24 x $50 = $1200.00

Under the lesser of $3,000 or 30% provision the displacee could absorb the $1,200 additional rental cost because they presently can "afford" to pay $300 per month for rent. Without the 30% limitation, the displacee would have received up to $1,200.00 to offset the additional involuntary rental incurred.

Pro's and Con's to 30% of income limit

PRO	CON
1. The Administration (OMB) does not believe the government should subsidize individuals who have income resources to pay at least 30% of gross income for rent.	1a. Displacement by a project or program is involuntary and therefore an individual's ability to pay higher rental cost is irrelevant.

PRO	CON
	1b. The amendments require suitable replacement housing must be available within the displacees financial means. If a displacees is presently not paying 30% it will be very difficult to comply with the provision of suitable replacement housing without providing the rent supplement to do so.
	1c. The number of appeals will increase dramatically.
	1d. The utilization of Sec. 206(a) provisions will greatly increase as the only means of providing the displacee with housing within their financial means.
	1e. Increased administrative burdens will be placed on state and local governments in an effort to accurately verify a displacees gross monthly income.
2. Federal entitlement programs set limits based on income.	2. Displacement by a government program or project is not voluntary and therefore the government is obligated to make the displacee whole.

ORG

VICTOR ATIYEH
GOVERNOR

Department of Transportation
HIGHWAY DIVISION
TRANSPORTATION BUILDING, SALEM, OREGON 97310

In Reply Refer to
File No.:

April 20, 1982

Francis B. Francois
Executive Director
AASHTO
444 W. Capital Street N.W.
Suite 225
Washington, D.C. 20001

RE: Administration
Relocation Assistance
& Real Property
Acquisitions Policies Bill

The bill which you transmitted to us on April 14 appears to have incorporated many of our previous recommendations. The bill is an improvement over the present law and incorporates many remedies for problems encountered in the administration of the law. We, therefore, believe it is in AASHTO's interest to support the Administration bill as it has been written.

Hopefully I will be present at the Oklahoma City meeting and be able to take part in the discussions. If I am not able to attend, the Relocation Supervisor, Mr. Doug Luth, will be present and will be able to assist in any way possible with either the review or preparation of any information that is considered to be important in the further promotion of this bill.

Very truly yours,

JB Boyd

J. B. Boyd, PE, PLS
Right of Way Manager

JBB:jh

cc: Robert E. Kirby
Skip Zelasko
Fred Miller
Scott Coulter
E. S. Hunter
Doug Luth

Form 734-2122

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Harrisburg 17120
April 21, 1982

Mr. Francis B. Francois
Executive Director
AASHTO
Executive Office
44 North Capitol Street
N. W. Suite 225
Washington, D.C. 20001

Re: Administration Relocation
Assistance and Real Property
Acquisition Policies Bill

Dear Mr. Francois:

Thank you for the opportunity to present our comments on this proposed legislation. Listed below are our comments on the Sections that we feel will have a significant impact on our acquisition program:

Section 101(10). While we feel that changing from comparable to suitable replacement dwellings will exchange one set of problems for another with regard to owners, we feel that the advantages will outweigh the disadvantages and endorse this change. As applied to tenants, we wholeheartedly endorse the change and view it as a positive, common sense approach which will eliminate windfalls to tenants.

Section 201. As a general comment on the entire section, we feel that these changes promote true uniformity while, at the same time, they provide the flexibility that is needed to handle unique circumstances. Further, we strongly endorse changes that delegates discretion to the States.

Section 202(a)(4). We favor the additional payment to businesses.

Section 202(b). We favor the changes to the schedule.

Section 202(c). While we feel that a raise in the ceiling for an "in lieu" payment is needed, we must reserve comment on the implementation of the policy until we are provided with the criteria by which the amount of the payment will be determined. We favor denying eligibility for this payment to owners of rental property.

Section 203(a)(1)(B). While we strongly endorse the use of the "buy-down" method of paying increased mortgage interest costs, we feel that this section, as written, is unworkable.

Section 203(a)(2). We strongly endorse the new one year rule and the decent, safe, and sanitary waiver provision.

Section 204(a). We do not favor lowering the ceiling on tenant payments. Changing from "comparable" to "suitable" (Section 101(10)) we feel, is sufficient to eliminate windfalls. Further, we do not favor basing the payment on the lesser of $3,000.00 or 30% of income. This would, in effect, eliminate a supplement entirely for displaced tenants simply based upon their income. This, we feel, is inequitable particularly in view of the fact that under this legislation, income has no bearing on the payment of a housing supplement to an owner. We favor the present ceiling and method of payment combined with a change from "comparable" to "suitable".

Section 204(b). We favor this change.

Section 204(c). While we strongly favor the elimination of the matching funds requirement, we disagree with the reduction of the maximum benefit.

Section 204(d). We favor the changes.

Section 205. As a general comment, we favor any change that will lead to greater uniformity and cooperation among the agencies. Our comments concerning "suitability" are found under Section 101(10).

Section 206. The use of "suitable" housing, the transfer of regulatory responsibility to the States and the change to use public housing programs in Last Resort situations are changes which we strongly favor.

Thank you again for this opportunity to comment. With very few exceptions, noted above, we find the changes proposed by this legislation to be positive and workable. This legislation is superior to previous attempts to change this Act.

Sincerely,

Thomas F. O'Byrne

Thomas F. O'Byrne, Chief
Right-of-Way Division
Bureau of Highway Services

COMMISSION
ROBERT H. DEDMAN, CHAIRMAN
A. SAM WALDROP
JOHN R. BUTLER, JR.

STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION
AUSTIN, TEXAS 78763

ENGINEER-DIRECTOR
MARK G. GOODE

April 20, 1982

Administration Relocation Assistance
and Real Property Acquisition Policies Bill

IN REPLY REFER TO
FILE NO. D-15

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W., Suite 225
Washington, D. C. 20001

Dear Mr. Francois:

Your letter requesting our comments on Senator Durenberger's bill was not received until yesterday. Therefore, we were unable to make a comprehensive study of the proposed legislation and meet the deadline for a response.

From our limited review, we find the proposed legislation more acceptable than the previous bill. The following suggestions for changes are offered:

Title I

Sec. 101(6) defines a displaced person but the definition does not address the eligibility of illegal aliens or nonpermanent residents such as students and migratory workers. Policies for these classes of relocatees have not been consistent in the past. It is suggested that these inconsistencies be corrected by the new legislation.

Title III

Sec. 301(9) states that the head of the acquiring agency shall offer to acquire an uneconomic remnant. The word "shall" should be changed to "may." This would accommodate those agencies and States which do not have eminent domain authority to acquire land in excess of project requirements.

We appreciated the opportunity to comment on the proposed legislation and we will be glad to participate in discussion of the bill at the meeting in Oklahoma.

Sincerely yours,

M. G. Goode
Engineer-Director

By: L. E. Clarke
L. E. Clarke
Right of Way Engineer

COMMISSION

ROBERT H. DEDMAN, CHAIRMAN
A. SAM WALDROP
JOHN R. BUTLER, JR.

STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION
AUSTIN, TEXAS 78763

ENGINEER-DIRECTOR
MARK G. GOODE

May 7, 1982

IN REPLY REFER TO
FILE NO. D-15

Administration Relocation Assistance
and Real Property Acquisition Policies Bill

Mr. Francis B. Francois
Executive Director
American Association of State Highway
  and Transportation Officials
444 N. Capitol Street, N.W., Suite 225
Washington, D. C. 20001

Dear Mr. Francois:

This is a follow-up to our letter of April 20, 1982, above subject, and to our comments regarding Senate Bill 2363 at the meeting in Oklahoma City. The proposed legislation is generally acceptable; however, we suggest some changes as discussed below.

Title I

Sec. 101(6) defines a displaced person, but the definition does not address the problem of illegal aliens who may be in residence at the time a notice of intent to acquire is given nor does it eliminate the windfall that accrues to those persons who move from the property for reasons other than project requirements. These moves occur due to the end of school semesters, completion of crop harvests, military and job transfers and others. It is suggested that the definition of a displaced person include the provisions that such person must be a legal resident who is required to move from the property by the displacing agency.

Title II

Sec. 203(a)(1)(B) is needed to revise the current law which has caused unusually large interest differential payments. The proposed Bill has the same deficiency as the current law in that it prescribes in detail the method of computing the payment. It is suggested that the wording be general in nature and give the lead agency the authority to prescribe the details of computation. The method of reducing the mortgage balance to make the level of payment the same on the replacement dwelling as on the acquired dwelling as proposed in SB 2363 is preferred at this time.

Sec. 204(a) places all displacees who qualify for a rent supplement under a 30 percent gross monthly income limitation. We believe this is discriminating and it would present extremely difficult administrative problems in attempting to ascertain gross monthly family income from every displacee who qualifies under this section of the Act. We urge strongly that this provision be dropped from this section of the Bill.

Title III

Sec. 301(a) is designed to address the appraisal requirements for real property to be acquired by donation and for the acquisition of real property by voluntary sale with a selling price of not more than $700. The amendment relative to donations is satisfactory. The amendment relative to the acquisition of real properties with low values is meritorious; however, this objective can best be accomplished by authorizing the lead agency authority to publish applicable rules. As proposed, the upper limit of low value would remain at $700 by law regardless of inflation rates or other economical influences. As these conditions change, the upper limit can best be adjusted through the regulation process rather than changing the law. Also, as a practical matter, additional flexibility such as minimum values needs to be provided. For example, if the indicated market value of a tract of land is $76, the acquiring agency should have the authority to offer $100 when applicable. Because of these reasons, it is recommended that the proposed amendment be revised as follows:

> "except the head of the displacing agency may forego an appraisal where the acquisition of such property is a donation. The lead agency shall publish rules providing alternative procedures for determining just compensation for real property of low value and shall establish and set upper limits of low value commensurate with current market and economic conditions."

Sec. 301(9) is satisfactory to perpetuate the present law; however, the mandatory requirement that offers to acquire remnants may have proven counterproductive to the original intent to aid owners by eliminating uneconomic remnants. Through proper appraisal procedures, the owners are compensated for any diminution in value to remainders. When the remnants are acquired, a greater nuisance is created in the market because these properties are in public ownership and must be disposed of by public bid. Extreme adverse feelings are frequently encountered when these remnants are subsequently purchased by other than the adjoining owners thereby blocking access or frontage to highways. As a general rule, these remnants can best be sold through the private market. Furthermore, some states may not have legislative authority to acquire real property in excess of what is needed for a public project. For these reasons, the Federal law should be on a permissive basis rather than mandatory, and it is recommended that the proposed amendment be revised by substituting the word "may" for "shall" in the first sentence.

We realize that this letter may reach you with very little time remaining to furnish comments on the proposed legislation. Your assistance in furnishing them to the appropriate persons will be appreciated.

Sincerely yours,

M. G. Goode
Engineer-Director

By: L E Clarke
L. E. Clarke
Right of Way Engineer

VERMONT AGENCY OF TRANSPORTATION

STATE OF VERMONT
OFFICE OF THE SECRETARY
133 State Street, Montpelier, Vermont 05602

April 23, 1982

Re: Administration Relocation Assistance and
Real Property Acquisition Policies Bill

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W.
Suite 225
Washington, D.C. 20001

Dear Mr. Francois:

We are grateful for the opportunity to review the administration's proposed bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The proposed bill does include several long overdue constructive provisions which it appears will greatly improve the services and payments available for displacees. In general we are in agreement with the intentions of the revisions, since they do address some of the main problem areas of the "1970 Act".

We do have strong reservations in two areas of the replacement housing provisions. First is eliminating the requirement that persons, owner or tenants, be relocated to comparable replacement dwellings in favor of suitable replacement dwellings. Second, displaced tenants rental payments will be based on a revised payment formula which reflects the displaced tenants ability to pay. We feel individuals and families required to relocate and qualify as a "displaced person" should in fact be treated in a uniform, fair and equitable manner. We must keep in mind the move is involuntary for the displacees and required for a project deemed to benefit the public as a whole. We too are opposed to unintended payment windfalls, however, we believe the existing provisions do, in fact, provide for the administration of a more uniform, fair and equitable treatment to the displacees.

We are also concerned that protection, benefits and services be available to all persons displaced by a Federal or Federally assisted program, including those displaced for "block grant" programs. We feel this should be a provision of the bill, regardless of the level of government responsiole for administering the Federal or Federally assisted program.

We agree the proposed bill appears to move in the right direction. We appreciate your efforts to minitor this legislation on our behalf and will be very interested in its progress.

Sincerely,

Tom Evslin
Secretary

TE:ANB:mgk

State of Wisconsin \ DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY
Room 120B Hill Farms State Office Bldg.
4802 Sheboygan Avenue
P. O. Box 7910
Madison, WI 53707
Telephone 266-1113

April 21, 1982

Mr. Francis B. Francois
Executive Director
American Association of State Highway
and Transportation Officials
444 N. Capitol Street, N.W.
Suite 225
Washington, D. C. 20001

Dear Mr. Francois:

This is in response to your request for comments on Senator Durenberger's bill (S.2263) amending the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

WisDOT had previously received a copy of an earlier draft of a bill by Senator Durenberger on the same subject matter and we are relieved to note that the rather radical changes in the earlier version have now been substantially toned down in this latest, more conservative draft. We have carefully reviewed this new and revised bill and it is the position of the appropriate transportation personnel in Wisconsin that this bill, if passed into law, will not pose any major problems with respect to the relocation assistance operations of the Department. We do, however, have some concern with the anticipated future interpretation of one section of the bill and also, of the failure of the Senator to include stiffer mortgage pay-back requirements.

In Section 101(10) of the Act, the term "Comparable Replacement Dwelling" in the present law is changed to "Suitable Replacement Dwelling." We certainly agree with the bill analysis that in certain situations in the past, the use of the "comparability" concept probably has resulted in a certain degree of red tape, expense and possibly some windfall payments during the implementation process. However, we have equal concern that the wording in this new version of the bill may totally eliminate the situation where the replacement payment offered to older or elderly displacees would not take into account their fluctuating future housing needs.

Specifically, we refer to the situation where the present dwelling of the older people contains four or more bedrooms and at the time of the property acquisition, all of their children live elsewhere. Without careful inquiry by the acquisition people, a snap decision could be made that a suitable replacement dwelling should be a one or two bedroom home. However, based on all of the facts, such a decision could be in serious error in the situation where the children were away at college and were expected to return for the summer months. In a situation such as this, the only possible replacement that should be considered would be a "comparable" (and not a "suitable") replacement. In effect, we feel the wording in this section of the bill could be substantially improved. On the other hand, there is no question that an old couple living in a ten bedroom Victorian home with no occasional or fluctuating future housing needs should "suitably" be relocated into a very usable one or two bedroom bungalow. As to improving and clarifying the wording in this section of Senator Durenberger's bill, it is our clear understanding that this item will be a topic of discussion next week at the Oklahoma meeting and that a modified definition will be recommended.

In Section 203 of the Act a number of changes are suggested in the "buy down" method to be used to handle an interest differential situation between the existing mortgage of an owner and the newer, higher rate mortgage that owner may find himself involved with in his replacement purchase. Senator Durenberger's suggested changes in this area of the bill are most acceptable; however, we feel that he should have included one additional requirement as outlined in the following paragraph.

A number of years ago when all of us started working with relocation assistance and mortgage differential payments, most of the nation adhered to the requirement that if any money payment were to be made to a displacee as the result of a mortgage differential calculation, that payment money had to be applied to the new mortgage. Under existing law, that requirement was dropped and the displacee currently may use such money for any purpose. We object to this failure to require that interest differential payment money be applied to the new mortgage, and we strongly recommend that the AASHTO Subcommittee on Right of Way consider making an appropriate recommendation to this effect in its comments to Senator Durenberger after the Oklahoma City meeting.

Wisconsin plans to have its Transportation Real Estate Director attend the April, 1982 meeting in Oklahoma City and you may be assured that close attention will be given to all of the meeting agenda issues, particularly those relating to relocation assistance changes and modification. If, after the meeting concludes, we find ourselves particularly concerned as to some recommended procedural change that will act to the detriment of our transportation operation, we will make it a point of advising you accordingly.

Sincerely,

Owen Ayres, P.E.
Secretary

OA:sjt

THE STATE OF WYOMING

Ed Herschler, Governor
Leno Menghini, Superintendent and Chief Engineer

Wyoming State Highway Department

P. O. BOX 1708 CHEYENNE, WYOMING 82001

April 21, 1982

MEMORANDUM

TO: John C. Cole, P.E. & SR/WA, State Right of Way Engineer

FROM: Alvin J. Pepper, P.E., L.S. & SR/WA, Staff Engineer

SUBJECT: Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982

1. The Relocation Assistance Act/1970 is really not uniform in that it does allow disproportionate injury among all classes of displaced persons. Individual business, farm and non-profit rights are not treated equally. Some displaced persons experience windfall profits, others wind up costing them money. The Act was intended to provide just compensation and for some it does not. A displacement should not cost any displaced person money out of his own pocket. We have observed these inequities since 1970.

2. It falls upon State and local agencies to administer federal programs and they should have more flexibility in matching the individual's needs with the needs, resources and goals of communities.

3. Preliminary relocation plans are superfluous in their development and hold little resemblance to actual one-to-one results. It is generally insufficient, unnecessary, costly, wasteful, and generally serves no useful purpose and should be eliminated.

4. While uniformity was supposedly achieved among federal agencies, the obverse is true in fulfillment of their own program goals. Interpretations and applications are injected where convenient. LPA's generally do a good job if left alone to carry out the Act within their community without the encumbering solutions of less knowledgeable federal officials ignorant of local effects.

5. Page 2. Paragraph (B) (i) eliminate "other" in second line. Page 3, Paragraph (ii) eliminate "substantial" in first line.

6. Page 4. Paragraph (2), second line. Change "minimizes" to "eliminates". Also (3) second line. Change "minimize" to "eliminate". Line 5. Eliminate "substantial". (4) third line, change "unique" to "personal" and eliminate "essentially" in fourth line.

7. Page 5. Paragraph (5). Change "unique" to "personal" in first line. Line 3, eliminate "unique".

8. Page 5. Section 202. Paragraph (4). Change to read "actual cost to cure expenses necessary to reestablish a displaced business at its new site." Strike "but not to exceed $10,000".

9. Page 6. Paragraph (c) add, "and who elects to go out of business" and the word "agency", in fourth line.

10. Page 6, Section 203. This corrects the windfall profits that individual home buyers have been reaping for the last 12 years.

11. Page 7. Paragraph (2). Final payment should absolutely not be made until the displaced person purchases and occupies a decent, safe, and sanitary replacement dwelling.

12. Page 7. Section 204, Paragraph (a). Strike ",or, where displacement is not caused by acquisition, any other event which the head of the lead agency may prescribe". This leaves a terrible loophole for every crackpot in the overall process.

13. Pages 7, 8, and 9. Section 204. I object to the whole section as cumbersome and unworkable.

14. Page 9 and 10. Section 205. This section provides overlapping responsibilities and authorities. This would increase the administrative nightmare. An agency would have to ferret out the opportunities and an individual could then choose the one that would provide him with the greatest economic advantage. I object to the whole section as cumbersome and excessively costly. There is such an effort here to be do-gooders that it is overwhelming in scope. The 1970 Act is superior.

15. Page 11, Section 206. Paragraph (b). This would help a state going through a ghetto type of neighborhood.

16. Page 13. Section 211. Changing this from all amounts received to "all net amounts received" is an improvement and allows for administrative overhead.

17. Page 13. Section 212. These repeals just help clear the water and do not hurt us.

18. Page 14. Section 301. Paragraph (a). I question the limit of $700 in line seven and believe this should be raised to $2500 due to the cost of an appraisal and report. These would be handled by review determination only.

19. Section 301. Paragraph (b) and (c). This is an improvement and incorporates previous supplemented policy. The state's role would be strengthened under (11), thereof.

In summation, I conclude that the 1970 Act has easier-understood language for the lay person. I get concerned with legal terminology that can be interpreted in different ways and which provide loopholes. What we want is policy that streamlines administrative workload and one that is conducive to a relocatee's basic needs without manipulation to enrichment or loss, and to restore one's rights whether it be residential owner or business owner to at least what they had before. I am always leery of radical changes. The new bill is still more oriented to the poor, with continued neglect to small business interests.

AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS
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ANTHONY REYNOLDS, MAI
First Vice President

Reynolds and Reynolds, Inc.
725 Independence Avenue, S. E.
Washington, D. C. 20003

202/544-2344

May 7, 1982

The Honorable David Durenberger
United States Senate
Room 353, Russell Senate Office Building
Washington, D. C. 20510

Re: S.2363 (PL 91-646)

The Appraisal Institute, Senator Durenberger, is pleased to support the position expressed by several organizations of real estate appraisers that the captioned legislation include a definition of the word "appraisal" as part of Section 101(a).

Whereas generally an "appraisal" of real estate is any impartial expert opinion of the worth, quality, value, or nature of a specified interest in identified real estate, we support the inclusion of the following definition for determining just compensation to former owners of government-acquired real property:

> Appraisal "A written statement impartially prepared by a qualified appraiser setting forth an opinion of the defined value of an identified interest in an adequately described property as of a specified date, and setting forth analysis of relevant market information."

Our advice and assistance is always available to you regarding appraisal legislation and related matters.

Respectfully,

Anthony Reynolds, MAI
1983 President-designate

ALEC
AMERICAN LEGISLATIVE EXCHANGE COUNCIL
418 C Street, N.E.
Washington, D.C. 20002
(202) 547-4646

May 8, 1982

MEMORANDUM

TO: Mr. Harold Steinberg
Associate Director For Management,
Office of Management and Budget

Mr. James Kelly
Deputy Assistant Director For Intergovernmental
Affairs, Office of Management and Budget

FROM: Edgar E. Vash EEV
Legislative Analyst,
American Legislative Exchange Council

RE: Request for mark-up of Senate Bill 2363 (Amendment to 1970 Uniform Relocation Act)

* * *

Senate Bill Number 2363, as introduced by Senator Durenberger and sponsored by the Administration offers a commendable revision of the 1970 Uniform Relocation Act (URA). The proposed amendments are, in general, a long overdue readjustment of certain inequities and disparities that prevail in the 1970 Act. Senator Durenberger and the Administration are to be congratulated for striking a just and proper balance between (1) this country's commitment to helping the poor and disadvantaged, and (2) the government's commitment to making the federal-state system a solvent, more manageable partnership.

Clearly, the 1970 Act does need drastic revision. The Act now provides unintended windfalls to state and local entities while offering restricted compensatory coverage to innocent, low-income persons displaced through no fault of their own. The current Act also gives little incentive for the prevention of waste, fraud and mismanagement. In contrast, the proposed amendments present some comparative advantages over the current law, including:

- prevention of speculative investments designed to obtain fraudulent compensation;
- clarification of the relationship of the URA to the federal-state system of block grants;
- revision of the payment schedules that were capped in the original URA legislation;
- reduction of unintended windfalls to state and local governments;
- increase in the quality and quantity of technical assistance to individuals displaced through no fault of their own;
- mitigation of the distorting leverage that government displacement imposes on the housing marketplace; and
- increased coverage of URA benefits to individuals who were wrongly excluded in the 1970 Act.

Having made these general observations, it is appropriate to add that the text of SB 2363 poses some technical and substantive problems vis-a-vis URA administration. These problems are neither trivial nor irrelevant. Rather, they are the sort of legal problems which can hamper the fair and indiscriminate application of the "just compensation" doctrine which SB 2363 supporters are wont to enforce. To resolve these problems, this memorandum offers 31 recommendations for statutory changes in SB 2363.

Before itemizing the suggested changes, it is appropriate to note at the outset two very timely issues not addressed in the proposed amendments. The first ommission is that the bill is unclear as to whether the Act will apply to enterprise zone legislation. While it is true that a federal enterprise zone program has not yet been enacted, 11 states already have a program in place and another 28 states have enterprise zone bills pending. Most of the legislation feature retargetting of certain federal financial aid, such as the CETA program or public works monies. If residents of designated enterprise zones are displaced because of activity partly financed with federal dollars (albeit without federal approval).

A second issue not addressed by the proposed amendments is how the Act interacts with the Administration's desire to sell or lease public land to private interests. The accelerated land sales does not involve direct financial assistance and, thus, is technically not an action covered under URA; the action does not involve demolition, construction or rehabilitation. Yet the sale of public land may involve displacement to the extent that an individual's dwelling may be located in or around an area about to be redeveloped.

Beyond those general observations, there are some technical problems with SB 2363 — problems which may hamper the efficient, fair, and equitable procedures that the amendments are supposed to correct. The problems can be corrected by adopting the following recommended changes:

RECOMMENDATION #1

The phrase "except public utilities" contained in Subsection 101(b) of the Act (lines 7-8 on page 2) unnecessarily excludes utilities from liability for displacement vis-a-vis federal activity. This exclusion is made without any reference to the rationale for excluding utilities which, parenthetically, are capable of contributing to a sizable amount of displacement. Because of utilities' growing intrerest in economically-lagging areas (c.f., Consolidated Edison's special rates in New York City distressed areas), they ought to be included under the rubric of displacing agencies. Exceptions may be needed for utilities that are either semi-public or strictly private in nature; but such exemptions are already provided for in the few states that allow such utilities. In other words, the statutory exemption listed in lines 8-10 of page 2 would still protect the few utilities that (1) are private in nature and (2) contribute to the displacement of individuals.

RECOMMENDATION #2

Line 23 on page 2 ("moves personal property from real property") should be deleted on the grounds that it may cause unintended windfalls to persons or businesses not directly involved in the displacement. The wording of the subsection can be construed as allowing rental agencies (e.g., furniture rental stores) to claim compensation because of a displacee's decision to either return rental items or default on rental payments. Such a scenario is not improbable, given the propensity of inner-city displacees to borrow or rent (rather than buy) major personal property items. The rental agency may argue that the departure of the displacee forced it to confiscate rental items ("move personal property") on which it otherwise would expect monthly rental fees. For these reasons, the phrase "or moves personal property from real property" (lines 6-7 on page 3) should also be deleted.

RECOMMENDATION #3

The word "affordable" in Subsection (10) of Title I (line 23 on page 3) is carelessly used and must be more strictly defined. It is obvious from the Act's statements of purpose that the word "affordable" probably means a dwelling which rents for money that is commensurate with the income resources of the displaced individual. As currently used, there is a possibility that a government official could use unfair or inflated standards for judging what is affordable, such as affirming that a displacee ought to be able to afford a dwelling since its rent is nominally below the average rent for the entire neighborhood or city. To guard against a racial or arbitrary decision of this sort, the word "affordable" should be stricken and substituted with the phrase, "consistent with the financial resources and income of the displaced individual."

RECOMMENDATION #4

The proposed amendments make repeated but misleading use of value terms in describing the intended equity and uniformity of the URA. For policy papers and internal memorandums, the terms can be used loosely and matter-of-factly. But for statutory language, the terms are unacceptable. They can be too easily interpretted as requiring set, inflexible levels of payments. The specific words should be changed as follows:

- "uniform" should be "indiscriminate" (line 4 on page 5, line 7 on page 6); this will prevent lawsuits alleging that the Act implies a standard payment for all displacees (such as a flat $500 for any transportation costs, regardless of whether all those costs were actually incurred);

- "equitable" should be "just" (line 4 on page 5, line 11 on page 5); this will prevent lawsuits alleging that the Act implies a specific, set payment for all persons displaced because of federal activity; similarly, the word "equal" on line 20 of page 16 should be changed to "comparable;"

- "fair" should be "prompt, adequate" (line 10 on page 5); this changes the entire line statement to read: "This Title establishes an indiscriminate policy for the prompt, adequate and just treatment of persons...," a phrase which is the same phrase used in federal laws to require compensation for nationalized businesses.

RECOMMENDATION #5

The phrase "all affected persons" (line 5 on page 5) implies, somewhat casually, that almost anyone can be compensated under the Act. An "affected person" can be construed to cover a wide variety of persons indirectly affected by displacement. (An example of the latter might include a grocery store that experienced a drop in sales because nearby residents [i.e., customers] were moved.) To narrow coverage of the Act, and to guard against speculative investments in or around an area that may be displaced, the phrase "all affected persons" should be substituted with "persons or businesses displaced through no fault of their own." This new language achieves two goals: first, it limits coverage to persons and businesses directly displaced; second, it gives notice that the Act is intended to cover only persons and businesses that were not intentionally displaced.

RECOMMENDATION #6

The phrase "essential to maintaining" (line 8 on page 5) connotes a static socialism in which a growth rate of social status must be "maintained." The phrase presumes that all displacement is an evil, whereas displacement of some individuals (e.g., possible drug traffikers) or some businesses (e.g., pornography shops) may be desirable for the social well-being of communities. Instead of saying that compensation under URA is "essential to maintaining the economic and social well-being of communities," SB 2363 should be changed to say that the compensation is "reasonably related to the economic and social well-being of communities." If this change is not made, and if some individuals or some businesses are not compensated because of a federal activity, then the Act has proposed an unsettling contradiction: on one hand, it states that compensation for displacement must be made to "maintain" the economic and social status of the area; but on the other hand, some individuals and some businesses are not eligible for compensation (meaning that those individuals and businesses are not essential to society). The recommended change merely reiterates the sort of flexibility implied elsewhere in the Act.

RECOMMENDATION #7

The federal government makes itself open to unnecessary compensation claims by stating that compensation will be made whenever displacement occurs in connection with "Federal financial assistance." This phrasing (line 13 on page 5) unmistakably makes the Federal Treasury liable for any displacement to which the Federal government is an unknowing accomplice. For instance, a state or local unit of government may use a Federal grant (perhaps a HUD technical assistance grant) to construct a medical center which may displace residents of the affected area. Federal officials may not have approved of the technical assistance monies for use in actual construction — it may have been authorized for use in the newly-constructed medical center — but since the technical assistance grant is usually included in a budget for this sort of project, federal monies were technically involved in the construction. To prevent this unnecessary liability of the Federal Treasury, the phrase "and approval" should be added to the phrase "with Federal financial assistance."

RECOMMENDATION #8

The federal government is placed in an indefensible and unnecessary position where the proposed amendments state that individuals "shall not suffer disproportionate injuries" (line 14 on page 5). The statement is too subjective because all injuries are, by definition, disproportionate. Because displacement affects different peoples with different incomes and different resources, displacement thus presents different (hence, "disproportionate") levels of harm. Because different businesses have different capacities for absorbing displacement, there will be different (hence, "disproportionate") dimensions of injury. The URA should not seek to prevent disproportionate injuries, but rather to assure that individuals are not compensated for injuries (which are inherently disproportionate) in an erratic manner. The phrase "shall not suffer disproportionate injuries" should be changed to read, "shall not experience irreparable or arbitrary injuries." By using the word "irreparable," the URA condones displacement to the extent that the displacement is compensated. By outlawing "arbitrary injuries," the URA guarantees that displacement is the decision of last resort — after an individual is compensated under terms of the URA.

RECOMMENDATION #9

The Subsection dealing with waste, fraud and mismanagement (page 5) presents a good opportunity to incorporate managerial and cost-saving techniques into the URA. By simply requiring agencies to minimize waste and fraud, however, there is no guarantee that significant levels of waste and fraud will actually be realized. To insure that those phenomenon are, indeed, minimized the URA should add the phrase "specifically through use of management by objective (MBO) plans" to the line that states, "Federal agencies shall carry out this law in a manner which minimizes waste, fraud and mismanagement" (lines 22-24 on page 5). The use of MBO forces administrators to produce positive, constructive reforms — partly because they give bureaucrats a specific mandate and partly because their job security and bonuses depend upon completion of those goals. The use of MBO is commonplace among solvent enterprises in the private sector and many county governments. [Details about how to design MBO charts are given in the February 1982 issue of ALEC's monthly State Factor.]

RECOMMENDATION #10

Line 2 on page 6 of Senate Bill 2363 includes the useless and counterproductive adjective "unnecessary" to modify the phrase "administrative and program costs." The adjective is inappropriate for the legislation because it gives state and federal officials a loophole for accruing the sort of costs that the proposed URA amendments seek to minimize. State and Federal officials can easily circumvent the obvious intent of the legislation by characterizing inflated travel or audit expenses as "necessary." The fact that the proposed amendment requires government officials to minimize costs already implies that "unnecessary" costs should be avoided; but including the adjective "unnecessary" legally prohibits government officials only from charging costs that they themselves choose to classify as "unnecessary." The adjective should be deleted.

RECOMMENDATION #11

The phrase "the administration of" (line 7 on page 6) is needlessly restrictive. Why shouldn't all procedures — administrative or otherwise — assure that the unique circumstances of individuals be taken into account? The phrase should be deleted on the grounds that it needlessly restricts the mandate of the government officials who use the URA.

RECOMMENDATION #12

The word "equal" used for characterizing the treatment of displacees (line 11 on page 6) implies a legal commitment to grant all displaced persons the exact same service. The fact is that different persons will have different needs and, thereby, unequal kinds of service. The purpose of the word "equal" is, of course, included so as to guarantee that no displacee receives preferential or derogatory service; but to unscrupulous lawyers scrutinizing the letter of the law, the word "equal" may denote a commitment that does not really exist. The word "comparable" should be substituted for "equal." This new word serves the same political need for mandating "equal treatment," while avoiding the legal effect of mandating unintended levels of services. The word "comparable" also gives state and federal officials the sort of semantic flexibility they will need when providing services under the URA.

RECOMMENDATION #13

The entire language of Subsection 5 on page 6 is improper statutory form. The list of what determines the unique circumstances of a displaced person is, moreover, too restricted and leaves out important factors that should be included in the criteria. The entire Subsection (lines 13-19) should be changed to read as follows:

> " (5) For the purpose of determining the unique circumstances of a displaced person, the following variables, among others, shall be considered:
>
> (a) the relationship, if any, of the affected area to a clearly-defined national security purpose;
> (b) the fair market value of the displaced person's dwelling or business;
> (c) the objectives, written and otherwise, of the displacing agency;

(d) the overall housing, development, and other needs of the community;
(e) the preferences and needs of the displaced person; and
(f) the technical assistance and other unique resources at its disposal for promulgating relocation assistance."

RECOMMENDATION #14

The entirety of Subsection 6 of Title II (lines 20-24 on page 6) is a prima facie mandate for government officials to actually improve the living conditions of displaced persons. This improvement can easily be construed as a requirement for government officials; it places on state and federal officials the burden of actually upgrading the living dwelling of displacees. This requirement stands on its own mandate, notwithstanding the stipulation elsewhere that government officials find only a "suitable dwelling" (instead of the "comparable" replacement dwelling). If a judge chooses to rule unconstitutional or illegal the "suitable dwelling" definitions (for whatever reasons), then the requirement that living conditions be improved would stand on their own weight. The entire Subsection should be changed to read:

> " (6) Nothing in this Act should be construed as authorizing the deterioration of housing conditions of persons covered under existing federal, state, and local government programs. "

RECOMMENDATION #15

Certain portions of the Moving and Related Expenses section of Title II (pages 7-8) are unnecessarily vague. The statutory language must be tightened to prevent state or federal officials from making arbitrary or unreasonable decisions. Additionally, the language must be amended to prevent the displacees from receiving unintended benefits. To prevent businesses or individuals from receiving expense advances before they are actually incurred, line 16 of page 7 should be changed to read: "(4) actual reasonable incurred costs for reestablishing..." To prevent an individual or business from claiming expense allowances for costs not directly related to the displacement, the following language should be added to the phrase "exceed $10,000" on line 18 on page 7:

> "provided that said costs are reasonably related to actual costs associated with reestablishing a displaced business, including but not limited to:
>
> (a) transportation and storage;
> (b) construction;
> (c) mortgage payments;
> (d) rent payments;
> (e) security deposit for property or equipment; and
> (f) interest payments attributable to loans, liens, and other forms of debt equity. "

RECOMMENDATION #16

Subsection (b) of the Moving and Related Expenses must be changed to prevent any displacement of the legal and proper role of the Internal Revenue Service (IRS) regarding calculation of tax liabilities. Specifically, a paragraph needs to be added after line 23 on page 7 stipulating that the IRS shall have final approval over any expensing, allowance, itemization, and deduction promulgated pursuant to the URA. While it is true that the expense and allowance mentioned in Subsection (b) are not the same expense and allowance taken on a tax form, those itemizations are nevertheless the sort of line items that may later be directly linked to the displacee's income tax liability during the taxable year. To prevent any encroachment by a displacing agency in an area historically handled by IRS personnel, there should be a statement after line 23 (page 7) affirming the IRS' prerogative to review regulations that affect future tax liabilities.

RECOMMENDATION #17

The "good cause" loophole provided in line 4 on page 10 must be clarified so as to prevent unintended abuse by government officials. As now written, the authority to invoke this clause is arbitrary and unequivocal; there is no restraint, no working guidelines upon which government officials must justify their action. If, for example, the displacee had a purely personal reason for needing an extension, the government officials who make the extension can simply state that there is "good cause" for expanding the coverage — without elaboration or professional explanation. This point is not mere semantic quibbling. The history of the federal-state unemployment compensation (UC) system suggests that federal or state government officials can easily invoke "good cause" provisos to allow recipients of a government service to draw benefits that exceed the intended levels. Regarding the latter, government officials used to allow UC benefit payments for individuals who voluntarily left their jobs, even though voluntary quits are generally insufficient grounds for requesting UC payments. UC officials would still allow payments to individuals who voluntarily left their jobs because their resignation was motivated by strong personal reasons and, hence, was a "good cause." UC officials remedied this abuse by requiring that a "good cause" be work-related.

As in the unemployment compensation model, the "good cause" proviso of the proposed URA amendments (line 4 on page 10) can be made conditional on certain findings by the government. Examples of such conditions can include the following: that coverage under URA was delayed pending a ruling from a court or federal agency; that the displacee was hospitalized at one point during URA coverage; that URA payments were interrupted because of federal fiscal exigencies; or that URA benefits need to be increased because of new evidence concerning the scope of the displacee's injuries.

RECOMMENDATION #18

The section allowing government agencies to waive the "decent, safe, and sanitary" requirement for suitable dwellings are reckless and ill-advised (lines 7-11 on page 10 and lines 17-20 on page 12). Neither provision gives the displacee a means by which to challenge an agency's claim that the displacee waived right to a "decent, safe, and sanitary" residence. Unwieldy or discriminatory officials can exploit this waiver option by sending to wrong addresses legal notices stating an intent to waive the requirement for "decent, safe, and sanitary" dwellings. Under the URA amendments as now proposed, government officials can thus circumvent their obligations vis-a-vis suitable dwellings on the grounds that the displacee acquiesced (consented to the waiver) by not responding to the agency's notice of intent. The provision should be stricken entirely because it creates the real possibility that underprivileged minorities will be cheated out of their otherwise legal right to a decent, safe and sanitary dwelling. There is no plausible scenario under which a fully-informed URA recipient would want to waive his right to such a dwelling.

RECOMMENDATION #19

The government payments for replacement housing should be resticted for use by the person actually displaced by government activity. The wording on line 21 of page 10 creates the opportunity for relatives or widows/widowers of a deceased displacee to receive the URA payment, even if those persons were not directly affected by the displacement. The phrase "or for" on line 21 of page 10 should be deleted on the grounds that the intended beneficiary of the URA is the only person who should receive the URA compensation. If the phrase "or for" is retained, there is a definite, immutable probability that abuse of the URA will occur under one of the scenarios outlined above.

RECOMMENDATION #20

The payment period specified in lines 1-14 of page 11 are excessive and unwarranted. There is no reason to believe that a displaced individual needs two full years to recover from the financial effects of displacement activity. A two-year duration period authorizes an unreasonable subsidy for individuals at a time when federal and state governments are trying to tighten the scope of existing benefit programs. If a displacee truly needs coverage for the full two years, then he is the sort of individual whose financial circumstances qualify him for benefit payments under federal and state welfare programs. The payment period should last 12 months (or, at the very most, 18 months). Limiting coverage in that fashion will not only reduce excessive costs under the URA, it will restrict abuse of URA to a level that is more controllable. (Note: If the time payment period on line 5 of page 11 is changed, then the 24 months specified on line 7 must also be changed accordingly.)

RECOMMENDATION #21

The phrase "gross monthly income" on line 10 of page 11 must be better defined, since the phrase as now written can be used in ways that distort application of the Uniform Relocation Act. As currently drafted, gross monthly income can reflect one of two extremes: either unusually high wages during a peak quarter (such as high overtime during peak automobile production seasons), or unusually low wages during a lagging quarter (such as a quarter when the displacee was unemployed or working only part-time). There are any number of more accurate techniques for determining an individual's actual gross monthly income, such as: (1) [one percent of annual earnings] multiplied by four; (2) [1/26 of average high three quarters] multiplied by four; or (3) [50 percent of average weekly earnings (include all weeks in which wages were reported)] multiplied by four. Whichever of these techniques is used will affect the wording in lines 10-14 on page 11.

RECOMMENDATION #22

The phrase "but not more than 180 days" (lines 7-8 on page 12) needlessly penalizes individuals who resided in a displaced dwelling for years before it was displaced. The Act arbitrarily discriminates against individuals who occupied dwellings in the affected area in the 180-day period prior to the displacement. This sort of selectivity leaves the URA open for litigation based on the due process clause of the Constitution. There are also probable litigation based on 14th Amendment protections, since there is no objective criteria by which to deny payment for individuals living in the displaced area for at least three months prior to displacement.

RECOMMENDATION #23

The final portion of the Replacement Housing For Tenants and Certain Others (line 25 on page 12 and lines 1-3 on page 13) are unnecessary and somewhat duplicative. The language immediately preceding Subsection (ii) [on lines 21-25 of page 12] prevents the sort of double-dipping and fraud implied in lines 1-3 on page 13. On the other hand, the language in (ii) does prohibit URA payments to individuals who may be repeatedly displaced through no fault of their own. Given the fact that most displacees will be low-income individuals, and given the probability that those individuals will likely relocate to another low-income area (because of affordability), then there is more than a possibility that a displacee can be forced to relocate within the two-year period in which URA payment is suspended. While it is true that Subsection (ii) can be waived for "good cause," the subsection does not provide protection for minorities in areas wherein government officials are known to discriminate against otherwise helpless individuals. The entirety of Subsection (ii) should, therefore, be stricken.

RECOMMENDATION #30

The privatization provisions in the Administration Section (lines 15-17 on page 18) are not an effective guarantee that some government services will be contracted out. The statutory language refers to privatization as a preference, not a requirement. Data processing, records keeping, warehousing, and even payment of compensation are but four URA services which can be handled more efficiently and less expensively by the private sector. To mandate such privatization, the following language should be added between lines 17 and 18: "(c) All provisions of this Act shall be administered in accordance with Office of Management and Budget Circular A-76."

RECOMMENDATION #31

Because of the selectivity of provisions relating to coverage and length of payments, the Act does pose potential problems vis-a-vis civil rights litigation. The Act should close with a strong statement concerning the Act's compliance with civil rights legislation. A suggested statement, which can be inserted as subsection (4) between lines 16 and 17 on page 19, would require the displacing agency to submit to the Attorney General a statement affirming compliance with the civil rights laws of the mid-1960s and the Fair Housing Act of 1968.

RECOMMENDATION #24

The litany of technical assistance listed at the bottom of page 13 and top of page 14 is laudable, but must be expanded to include technical services vis-a-vis employment and job search. Since displacement can directly affect whether or not an individual is employed, the following sentence should be added to line 7 on page 14: "To the extent practicable, the Secretary of Labor shall make available technical assistance regarding employment opportunities suitable to the displaced individuals, including but not limited to information about the location of possible job opportunities."

RECOMMENDATION #25

The list of additional technical assistance to displacees given in Subsection (c) of page 14 needs a sunset clause to prevent displacees from exploiting URA protections for a period that exceeds a reasonable amount of time. To limit the liability of government services, the following phrase should be added to the beginning of line 8 on page 14: "For a period not exceeding 12 months after the moment of displacement." The qualifier can be reinforced by adding the word "and reasonable" after the word "appropriate" on line 10 of page 14.

RECOMMENDATION #26

Since displacement is an ambiguous phenomenon that can indirectly affect government delivery services in a variety of ways, the URA must protect government officials from assuming liability for impacts not reasonably related to the displacement. This protection can be incorporated into the Act by deleting the word "could" on line 14 of page 15 and inserting in its place the word "significantly." This change gives federal officials a legal means for avoiding an uncontrollable and excessive amount of local requests for service reparations.

RECOMMENDATION #27

The Subsection pertaining to resolution of interagency conflicts (Subsection (e) on page 15) is weak because it is optional. While subsequent language does provide a means for arbitrating interagency conflicts (lines 23-25 on page 15), that arbitration is activated only if the conflicting agencies opt to try to designate a lead agency in the first place. To mandate a resolution of conflicts, the word "may" on line 21 should be stricken and substituted with the word "shall."

RECOMMENDATION #28

To facilitate resolution of litigation that may arise from the Act, the phrase "and intent" should be added after the word "policy" on line 23 of page 16. This change insures that compliance with the Act applies to the intended purpose (i.e., connotation) of the Act instead of just a strict interpretation of statutory language.

RECOMMENDATION #29

The first section in the Federal Share of Costs section (lines 14-21 on page 17) needs some sort of cap to prevent unwarranted expenditures by state or local agencies from being charged to the Federal Treasury. The last line (line 21 on page 17) should be followed with either (1) criteria by which federal agencies must calculate reimbursable expenses, or (2) a disclaimer for exogenous expenses by state and local agencies not directly related to amelioration of displacement.

ASSOCIATION OF GOVERNMENTAL APPRAISERS
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May 5, 1982

The Honorable David Durenberger
Russell Senate Office Building
Room 353
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

RE S.2363 (Public Law 91-646)

Enclosed please find copies of two letters concerning the proposed amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, one issued by the Association of Governmental Appraisers, the other co-endorsed by the American Institute of Real Estate Appraisers, the American Society of Farm Managers and Rural Appraisers, the American Society of Appraisers, the Association of Governmental Appraisers, and the Society of Real Estate Appraisers.

The Washington, D. C. Chapter of the Association of Governmental Appraisers whole-heartedly concurs with the statements and suggestions set forth in both documents.

We would like to draw your attention to two items in particular. First, the suggestion by the Association of Governmental Appraisers that the Department of Justice be designated as the "lead agency." Secondly, the definition of an appraisal as set forth in both letters. We feel the latter is a clear, concise explanation that warrants inclusion in the Act.

Respectfully submitted,

Association of Governmental Appraisers,
Washington, D. C. Chapter

by: James Gordon Armstrong (S.S.S.)
James Gordon Armstrong, Chapter President

encls.

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May 4, 1982

The Honorable David Durenberger
Russell Senate Office Building
Room 353
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

RE S.2363 (Public Law 91-646)

The Association of Governmental Appraisers' membership consists of appraisers and others in related realty occupations in Federal, state, and local agencies, regulated financial institutions and public utilities, as well as private appraisers doing contract work for these bodies.

We have followed with considerable interest the development of amendments to the referenced law, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Basically, we support S.2363, a Bill to amend the Act. We, in concert with the other major appraisal organizations, would welcome the opportunity to assist the Committee in developing S.2363. In this respect, we are submitting several recommendations to the Committee.

We strongly recommend that a concise definition of an appraisal be included in Section 101(a) of S.2363, because valuation is an intergral part of real property acquisition and an appraisal is the starting point of all real property valuation. A uniform definition of an appraisal would be an important step in improving the quality of valuations and result in more equitable treatment to both the landowners whose property is being acquired, and to the public. Its inclusion in such a policy statement would assist in the procurement of at least a minimum quality product.

We respectfully submit the following definition of an appraisal:

> "Appraisal - a written statement independently prepared by a qualified appraiser setting forth an opinion of value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information."

Also, under Section 213, we recommend the President be encouraged to designate the Department of Justice as the lead agency. The Department of Justice is not involved in the initial acquistion of monitoring of specific projects, such as Department of Housing and Urban Development or Department of Transportation, and as such has a broader base of interest in all kinds of acquisition. The Department of Justice is the logical point for coordination with other Federal agencies, as it has no operational program responsibility and would be more concerned with developing uniform regulations executing the intent of the legislation. And of course, the Department of Justice ultimately represents most of the involved Federal agencies in eminent domain actions.

Under Section 301(a) Section 301(2), donation or voluntary sales of $700.00 value or less would not require an appraisal. We recommend this value limit be more liberal, say at $2,500.00 or $5,000.00 with action supported by a brief statement or opinion of value by the acquiring officer.

Section 301(c)(11) of S.2363 proposes to have Federal agencies that acquire land within the boundaries of a state directly, acquire such lands in accordance with state law, rather than Federal law, which is now the case. It is our understanding that this amendmendation is to be withdrawn from S.2363. In the event it is reconsidered, we submit our comments herewith.

It is our considered opinion that present procedure of promoting legal uniformity throughout all 50 states, is, with the addition of a "lead" agency, most equitable.

Many of our members are involved in real property acquisitions that are made in accordance with state laws, such as state highways, urban renewal, etc. State laws vary in the treatment of severance damages, project benefits, business losses, quick-take provisions, and necessity. The disparity among the states in their eminent domain laws results in more costly and oftentimes more time-consuming property acquisitions. Therefore, we believe if Federal agencies were required to follow state eminent domain laws, the result would be chaotic and more expensive.

Further, the differences between states in what elements are compensable and in how the degree of compensability is measured are substantial. These differences would result in gross inequities in the expenditure of the public funds for similar projects, as between one state and another. In our opinion, the proposed amendation would be equitable only if involved state laws were similar or if the source of funds for a project were the state in which the project is situated.

Respectfully submitted:

Association of Governmental Appraisers

By: William C Middlebrook

William C. Middlebrook, SGA, ASA, National President

May 4, 1982

The Honorable David Durenberger
Russell Senate Office Building
Room 353
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

RE S.2363 (Public Law 91-646)

We have followed closely the development of amendments to the above-noted law, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The undersigned organizations represent an overwhelming majority of the professionally-designated appraisers in the United States. Our members specialize in appraisal practice, and are cognizant and appreciative of those provisions in the existing Act which are directed to appraising, especially Section 301. We strongly support the effect of this and related sections.

In your efforts to amend the Act, we wish to direct your attention to an area which warrants improvement: the existing legislation fails to provide guidelines or standards concerning the quality of appraisal work which will be acceptable to the agencies and the public.

In order to be helpful to you and others concerned in strengthening the Act, the following suggestions are respectfully tendered:

> (1) Section 101(a) of S.2363 be amended to include the following definition of an Appraisal:
>
> "Appraisal - a written statement independently prepared by a qualified appraiser setting forth an opinion of value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information."
>
> (2) In defining the term "lead agency," Section 101(e)(11) of S.2363, the base criteria for such agency should be established upon the factors of (a) nation-wide organizational structure, to permit effective administrative implementation of the Act and (b) non-operational involvement in the Relocation and Acquisition activities required by the Act.

In the developmental aspects of the new legislation (as proposed by S.2363), we recognize that our area of special concern -- the Appraisal Process -- is also of equal concern to the various acquiring agencies. Partially, the format of the appraisal is the responsibility of the acquiring agencies. We look forward to working, with agencies involved, in the development of relevant, acceptable definitions, procedures, and performance standards.

Your staff has asked us to comment upon Section 301(c)(11) of the Act, which relates to Federal preemption of state eminent domain laws. Because of their acknowledged expertise in this area, this issue will be addressed separately in a letter by the Association of Governmental Appraisers (a professional organization comprised of Federal, state, and local agency appraisers).

Respectfully submitted,

American Society of Appraisers

by
Dexter D. MacBride, CAE, FASA, Executive Vice President

American Society of Farm Managers and Rural appraisers

by: William D Case by Carl A [illegible] Jr ARA
William D. Case, ARA, National President

Association of Governmental Appraisers

by: William C Middlebrook
William C. Middlebrook, SGA, ASA, National President

Society of Real Estate Appraisers

by: Oren W Russell
Oren W. Russell, SREA, International President

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May 21, 1982

The Honorable David F. Durenberger
Chairman
Subcommittee on Intergovernmental Relations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

Mr. McCollam has asked me to respond to your letter of May 7, 1982, in which you requested our comments on S. 2363, the proposed "Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982."

More specifically, you asked for our views on section 101(b) of the bill, which would broaden the definition of "State agency" under the Uniform Act. The definition includes all private entities which receive Federal funds for a project and have eminent domain authority under State law, except public utilities or where State statute specifically exempts a private entity from the provisions of the Uniform Act. The effect of failing to exclude public utilities from this definition would thus be to subject them to all the requirements of the Act.

As you may know, Bill Pickens of my staff has contacted Paul Hewitt to discuss our preliminary views on section 101(b). However, before providing you with a formal position on this issue, we are attempting to obtain as much information as possible from our member companies. Unfortunately, although we are pursuing this matter diligently, it has not yet been possible to contact a representative sample of our almost 200 members.

As soon as we have obtained the necessary data, we will be pleased to provide you with a further response. Thank you for the opportunity to comment on this legislation.

Sincerely,

Frederick L. Webber

WRITTEN STATEMENT
OF
THE NATIONAL HOUSING LAW PROJECT
ON

S.2363

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

FOR THE

SENATE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

The National Housing Law Project is a support center which provides assistance on housing and community development matters to Legal Services attorneys. We are deeply concerned about the serious and widespread problem of forced displacement of low-income people from their homes and neighborhoods in cities, towns and rural areas all across the country.

We agree with the Subcommittee that the time has come to re-examine the Uniform Relocation Assistance and Real Property Policies Act (URA). Federal agencies have interpreted the URA so narrowly that countless thousands of people displaced as a result of federal and federally assisted programs have received none of the Act's protections. When the URA was enacted in 1970, Congress stated that the Act's success in achieving its intended purpose would depend upon "imagination, ingenuity, and a desire on the part of its administrators to translate this authorization into equitable and satisfactory conditions for the people affected." H.R. Rep. No. 91 1656, 91st Cong., 2d Sess. 3 (1970). Its administrators have indeed shown much imagination and ingenuity -- but with the goal of restricting both the number of people covered by the Act and the nature of the protections and assistance afforded those that they do deem covered.

The present administration, in its proposed legislative amendments embodied in S.2363, now asks Congress to lend its hand to the dismemberment of the URA. These comments will address the major provisions of the amendments which will accomplish that result.

I. MAJOR DEFECTS OF S.2363

A. Limiting the URA's Coverage to Instances Where the Federal Government Has Direct Responsibility for Site or Project Approval Decisions

With one well-placed phrase, the administration has succeeded in removing from the coverage of the URA all but, as the Advisory Commission on Intergovernmental Relations pointed out, "a handful of GSA, Interior and Defense programs" that cause displacement. Cong. Rec. S3418 (daily ed. April 13, 1982). We commend Senator Durenburger's opposition to this unconscionable amendment and would urge that the Subcommittee similarly resist this bold attempt to make a mockery of the URA.

The only rationale offered by the administration is its desire not to encumber state and local governments that administer block grants. It has placed its notion of the "New Federalism" and flexibility above the basic concern expressed in 1970 by the creators of the URA that people displaced by federal or federally assisted programs should not be disproportionately burdened for activities that benefit the public as a whole. In other words, the administration would rather burden people displaced by, for example, the Community Development Block Grant program, than burden state and local governments that make the decisions about how to spend this federal money.

In 1970 Congress decided that state and local governments receiving federal funds must assume certain responsibilities when their use of those funds causes displacement. When the harm caused by the use of federal funds is great enough, Congress typically conditions their receipt on the assumption of a responsibility to prevent that harm or mitigate it. This has been true with respect to state and local governments' obligation not to discriminate in programs receiving federal financial assistance. since 1964 with the enactment of Title VI of the Civil Rights Act, and it must remain so for state and local governments that choose to use their federal financial assistance for activities that cause displacement. Instead, this Congress is being asked to decide that providing state and local governments with flexibility is a greater social good than mitigating the hardships experienced by people displaced by locally-run, federally assisted programs. Moreover, since the data show that people displaced by these programs are overwhelmingly poor, elderly and minorities, Congress is also being asked to advance the goal of flexibility over the needs of the most politically powerless of our society.

The irony of the administration's attempt to limit URA coverage only to those situations where a federal agency makes specific site or project decisions is that the result is far from uniform, belying the name of the Act which is "The Uniform Relocation Act". The administration's proposals turn the clock back to 1970 and will recreate the circumstances which gave rise to the enactment of the URA in the first place. For example, people displaced for an intrastate highway system, where the State Highway Department frequently acquires rights of way with nonfederal funds and then seeks federal financial assistance only for the actual construction work, will not receive URA protections and benefits under the proposed amendment. On the other hand, persons displaced for an interstate highway system, where the Federal Government makes specific site or project approval decisions, will be entitled to URA protections and benefits. Or, persons displaced by a U.S. Corps of Engineers public works project will continue to be covered by the Uniform Relocation Act; while persons displaced as a result of a similar public works activity being undertaken with Community Development Block Grant funds will not be covered by the URA under the proposed amendments.

When it was considering enactment of the URA in 1970, this Committee heard much testimony regarding inequities and lack of uniformity among the various federal and federally assisted programs and wrote in its Senate Report:

> The letters that we have received from the displaced persons describing the inequities in ... are heart rending.
>
> In a typical hardship neighborhood, people on one side of the street were receiving special relocation assistance and fairly negotiated prices for their land, while on the other, they were being evicted with no assistance and compensation, and prices were being offered by federal authorities at below the appraised value. Up the street an expressway was coming through with a set of moderate benefits and land-taking policies - a situation which has been cleaned up substantially by last year's Federal Aid Highway Act. And in another section of the neighborhood small businesses were receiving little or no assistance either in relocation or economic adjustment.
>
> The supreme irony of this is the fact that these were problems caused by Federal programs where Federal taxpayer money was involved.
>
> This lack of uniformity only provides irritation and confusion in the communities affected. It provides an unfortunate image

> of the Federal Government at the State and local level. It results in a continuing and annoying conflict between Federal agencies and State and local aid recipients. And undermines confidence in and support for government programs.

Sen. Rep. No. 91-488, 91st Cong., 1st Sess. 6 & 7, 1969.

In 1970, the Senate described the effect of displacement on people as "shattering". Without effective and comprehensive URA coverage, we will return to those days that witnessed "cold administrative indifference to the plight of those left without roofs over their heads" as a result of community development, highway, and other federal programs. Triangle Improvement Council v. Ritchie, 429 F.2d 423, 424 (4th Cir. 1970).

Finally, it should be noted here that HUD is asking Congress to do what it has administratively sought to do since 1981 with respect to the Community Development Block Grant program: render the URA inapplicable. HUD would have Congress believe that the CDBG program, like the General Revenue-Sharing program, irreconciliably conflicts with the URA. In other words, the two laws are a "force fit" and the URA, therefore, should expressly be made inapplicable.

This argument was made by the Fifth Circuit in Goolsby v. Blumenthal, 590 F.2d 1369 (5th Cir. 1979) (en banc). But in Goolsby the other law in question, the 1972 General Revenue Sharing Act, was so radically different from the

1981 CDBG program amendments that the case is wholly inapposite. The irreconciliable conflict between General Revenue Sharing and the URA was founded on the following facts. First, the court noted that the Revenue Sharing Act made reference to only two other federal laws: Davis-Bacon and the civil rights laws. Further, if the URA were applied, the court found that there was no effective mechanism for the Office of Revenue Sharing to enforce the requirement. There is no provision for a "front end" review of proposed expenditures and there is no possibility of a meaningful performance review because of the difficulty of tracing the funds and determining how they were actually spent. The court also found evidence in the legislative history of the Revenue Sharing Act that Congress intended that the use of the funds not would not trigger the application of any laws or standards not specifically spelled out in the Act itself. This was consonant with the Act's "no strings attached" approach to dispensing funds. Finally, the court found persuasive the fact that Congress had remained silent after the Fourth Circuit held that NEPA, another federal law not specifically mentioned in the Act, did not apply to general revenue sharing funds. See Carolina Action v. Simon, 552 F.2d 295 (4th Cir. 1975).

In sharp contrast, the 1981 amendments to the Housing and Community Development Act expressly hold the grantee to compliance with civil rights laws and "other applicable laws". 42 U.S.C. § 5304(b)(4). Further, the "force fit" the Fifth Circuit complained of in Goolsby is not present when meshing the URA with the new CDBG program. There is an effective means of enforcement. While the "front end" review has been eliminated, Congressional intent was to emphasize the performance review -- and the Law Project does not think that HUD would want to be in the position of arguing that it cannot effectively trace and account for CDBG expenditures.

There is not one shred of support in the legislative history of the 1981 amendments for the view that a sub silentio repeal of the URA was contemplated by Congress. To the contrary, the purpose of the shift in decision-making and the emphasis on flexibility was procedural, not substantive. The Senate Report states, "It should be emphasized that the Committee's intent is to cause procedural simplication rather than substantive change." S. Rep. No. 97-87, 97th Cong., 1st Sess. 2 (1981). And one of those substantive requirements, or "strings", is that low- and moderate-income people principally benefit from the CDBG program. If lower-income persons are supposed to benefit from the CDBG program, displacing them with CDBG funds without URA protections and assistance runs counter to that requirement.

In sum, there is no irreconciliable conflict between the URA and the new CDBG program and there is every indication that Congress intended the on-going application of the URA to that program. To suggest otherwise is to thwart the very purpose of the URA to provide uniform, fair and equitable treatment to persons displaced by federally assisted programs.

B. The Provision of Uneven Benefits to Persons Displaced by Substantial Rehabilitation and No Benefits to Persons Displaced by Code Enforcement

In the process of reforming one inequity in the provision of relocation protections and assistance to persons displaced by non-acquisition activities, the administration has created another. In the past, HUD has argued that the URA does not cover displacement due to rehabilitation or demolition activities unless the displacement is caused by a public agency acquiring the property to be rehabbed or demolished. Instead of granting relocation protection and assistance under the Uniform Relocation Act, HUD administratively extended some limited protections and assistance to victims of such displacement. Over the past few years, 13 different sets of regulations have been promulgated by HUD, each slightly different than the others.

The administration now proposes to extend the coverage of the URA to include persons displaced by rehab or demolition in the absence of an acquisition by a public entity. It is doing so in order to "ensure that persons displaced by such programs do not have uneven rights and entitlements solely due to the type of displacing activity". That is, of course, a laudable goal; however, the administration's proposals fall far short of achieving that goal. In fact, the proposed amendment of Section 101(6) of the URA would result in "uneven rights and entitlements solely due to a type of displacing activity". The administration's proposed amendment establishes two classes of residential displacees. The first consists of those who move as a direct result of a written notice of intent to acquire the property in which the person resides. The second class consists of those who are forced to move from their homes "as a direct result of substantial rehabilitation or demolition for a program or project undertaken by a federal agency or with federal financial assistance". The first class of beneficiaries, those who move as a result of the acquisition of their homes, are entitled to receive (1) moving and related expenses, (2) advisory assistance services in locating replacement housing and (3) replacement housing payments. However, those who belong to the second class of beneficiaries, those who move as a result of rehabilitation or demolition, are entitled to receive only (1) moving and related expenses and (2) advisory assistance services in locating replacement housing. Not only is this non-uniform but the switch from administration regulation to URA coverage will deprive victims of rehabilitation and demolition displacement of some of the stronger protections and assistance of those administrative regulations.

In addition, the administration's proposals would exempt from URA coverage federally-assisted code enforcement on the rationale, according to HUD Assistant Secretary Bollinger's testimony before this Subcommittee on April 22nd, that "code enforcement is a local police power, designed and implemented by local governments, and is not a federal power, responsibility, or decision." In 1970 when Congress enacted the URA, it ensured that the programs then in existence which provided federal funds to assist in local code enforcement, rehabilitation, and demolition activities at the state and local level that resulted in displacement were covered by the Act. See 42 U.S.C. § 4637, entitled, "Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance." Thus, in 1970, the determining factor was not whether a police power was local or federal, but whether in exercising that police power a state or local government used federal funds. The programs identified by statutory citation in Section 4637 of the Uniform Relocation Act have since been replaced by the Community Development Block Grant Program. Therefore, instead of amending the Uniform Relocation Act to exempt code enforcement from its coverage, Congress should be updating Section 4637 of the URA to reflect the fact that code enforcement is now carried out at the local level with federal financial assistance pursuant to a different federal program -- i.e., the Community Development Block Grant Program.

C. Failure to Maintain the Housing Supply

Under the Uniform Relocation Act, if affordable, decent, safe and sanitary housing cannot be found within the existing housing market, and the federal program or federally assisted program is to proceed, the displacing agency, under the so-called housing of last resort provision, must provide the replacement housing. Section 206(b) of the proposed amendments appears to permit the use of subsidized or assisted housing programs to meet the houser of last resort provision. On the other hand, the section-by-section analysis pertaining to Section 206(b) appears to say that while existing public housing programs can be utilized to satisfy houser of last resort obligations, that "the cost attributable to the provision of such housing shall be borne by the displacing agency." If the administration means that a highway department causing the displacement can meet its housing of last resort obligations by providing funds to the local Public Housing Authority to create last resort public housing, the Law Project supports the administration's position. If, however, the administration is suggesting that a highway department can satisfy its obligations to build housing for displacees by pointing to a proposed new public housing being constructed by the local Housing Authority, then the Law Project opposes this method of meeting displacees' needs.

The Project believes, as the administration does, that there should be better coordination of government programs. However, the Project does not believe that scarce federal resources targeted to new public or assisted housing should be used to meet displacees' needs. Using scarce resources in such a fashion simply creates a secondary set of victims. Those thousands of people on public housing waiting lists who could be served by the creation of new units will have to wait longer if those new units are designated housing of last resort for displacees. If this is the administration's position, it has no concern for maintaining and expanding the supply of affordable housing. Displacees will not only be competing with other low-income people in the private market who are in need of affordable, decent, safe and sanitary housing, but they will also now be competing in the publicly-assisted market for those scarce units.

This failure to maintain the supply and defer meeting other low-income persons' needs manifests itself in two other provisions. In Section 204(b), a displacing agency can also dip into those scarce federal housing program resources and satisfy its replacement housing payment obligations. Likewise, in searching for replacement housing that is "suitable", Section 101(10) states that if a displacee receives public assistance for housing, the replacement housing unit need not be on the private market. In the past, only tenants of public housing could be relocated into public housing.

Proposed Section 101(10) would permit displacing agencies to place all displacees at the head of the public housing waiting lists, usurping the place of other, equally needy, low-income people, and encouraging a net decline of affordable housing units.

D. The URA Transformed into the FRA (Flexible Relocation Act)

There are several instances in which uniformity gives way to flexibility in such a fashion as to produce inequitable results. For example, in defining "state agency" the proposed amendments would include "any entity which has eminent domain authority under state law", except where a state statute specifically provides that a private entity shall not be subject to the provisions of the Uniform Relocation Act. Thus, residents of St. Louis displaced by such an entity will have URA protections if the Missouri State Legislature does not take them away; across the river in East St. Louis, that city's residents will similarly be subject to their state's legislature's decision with respect to URA coverage. Thus, displaced residents will not be guaranteed a federally-set standard of relief, but whatever their state legislators chance to provide them.

In addition, the proposed amendments provide "flexibility" to displacing agencies to waive the requirement that a suitable replacement dwelling be decent, safe and sanitary if there is good cause and the agency receives the consent of the displaced person. No rationale is put forward to justify this unwarranted waiver. Even though the displacing agency must obtain the consent of the displaced person, clearly a person who is being subjected to the hardships and burdens of displacement is in no position to make a knowing and intelligent waiver of statutory rights. Such a waiver provision inevitably will lead to abuse by displacing agencies anxious to meet their relocation burdens in increasingly tight housing markets.

Finally, while the proposed amendments as a whole exhibit a meanness of spirit, one particular provision exhibits the administration's total failure to understand the displacement process and the hardships that it creates. That provision is Section 204(d)(ii) which sets up a presumption that someone who has been a displaced person during the two years preceding the current displacement has moved principally for the purpose of obtaining relocation assistance. As the section-by-section analysis points out, this provision is "aimed at eliminating unintended windfalls to persons who camp 'one step ahead of the bulldozer'". We have been hearing lately of welfare abuse, food stamp abuse and now we have, at last, relocation abuse.

The administration would do well to re-read HUD's interim Displacement Report of February, 1979 in which HUD reviewed available data on displacement. In discussing characteristics of the displacees, HUD found two general patterns. First, "displacees tend to move very short distances. For example, displacees from the Adams-Morgan area of Washington, D.C. are reported to often locate in the immediate environs. Those who have left the area have not severed their social ties to the neighborhood, often returning for religious or social gatherings on weekends and evenings." Displacement Report at 27. In addition, HUD found a "second, and related, point ... that dislocated families have moved as many as three times since they were first dislocated. Likewise, one would expect that the families who have elected to remain in Capital Hill will, in the not too distant future, be forced to move again." Id. In addition to finding multiple forced moves, all within a short period of time, HUD also found that those who are currently being displaced are the same families who in the past were displaced from urban renewal areas in the last two decades. The sad fact is that people often are one step ahead of the bulldozer. But this is only because they try to cling for as long as possible to the familiar and because, being poor, they are likely to relocate to areas slated for further demolition or revitalization.

E. Reduction of Replacement Housing Payments

The administration has recognized that the inflation we have seen since the URA was enacted a decade ago requires that replacement housing payments for tenants be adjusted upward. In fact the administration would propose, instead of a $1,000 a year replacement housing payments, that tenants be entitled to $1,500 a year. Recognizing, however, that this would require that a tenant receive at least $6,000 over a four-year period, the administration cut the period of time to two years to which a tenant is entitled to receive a maximum of $3,000 in replacement housing payments. In addition to cutting back on the time period during which a tenant is entitled to be protected against the harsh financial impact of a forced move, the proposed amendments also could place a tenant in the position of having to pay a greater percentage of his or her income for housing costs than he or she did before the forced move. That is because Section 204(a) requires the displacing agency to make a replacement housing payment which is the lesser of (a) $3,000 or (b) 24 times the amount obtained from subtracting 30% of the displacee's monthly income from the monthly housing cost at the replacement dwelling. Under current law, the percentage of income devoted to housing before displacement is the relevant percentage.

This 30% income standard is a formula used in the HUD housing programs. It is appropriate to use such an ability to pay standard in the context of distributing scarce federal resources which cannot serve all of those in need of the programs. It is highly inappropriate to require an ability to pay standard in the context of relocation assistance when but for the displacing federal program or federally assisted program a tenant would be paying less than 30% of his or her income on shelter costs.

Finally, it is unseemly that the administration should be so conscious of the federal fisc when it is dispensing tenants' replacing housing payments, yet at the same time increase the amount of benefits available to businesses when they are displaced. One is reminded of the statement reportedly made by Mr. Stockman (albeit off the record) at breakfast one morning and repeated in the Atlantic Monthly. This administration, he vowed in its early days, would balance the federal budget in an even handed fashion, being firm both with weak clients and with clients with weak claims. As for the weak clients, very few are covered by the administration's URA proposals, and those that are covered will receive very little by way of benefits and assistance. But business, as usual, will receive increased benefits.

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*To say nothing of the blatantly political exemption of

(footnote continued)

public utilities from the list of "state agencies" whose displacement-causing activities are covered by the URA. The sole rationale for this exemption is that they don't displace too many folks and they "would strenuously object to being covered by the Act." Cong. Rec. at 53421.

The administration must have been aware that public utilities, telephone poles and other utility lines may be characterized as "displacees" within the meaning of the URA. In Chesapeake & Potomac Tele. Co. v. Landrieu, ___F.2d ____, No. 8101602 (4th Cir., March 25, 1982), the telephone company, which was forced to move equipment as a result of federally assisted redevelopment activities, was held to be entitled to compensation under the URA.

Thus, the utilities are in the envious position of having it both ways: if they displace others, they need not worry; but if they should be displaced, they can seek cover under the Act's protections.

Redevelopment Authority
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May 11, 1982

The Honorable David F. Durenberger
Russell Senate Office Building
Room 253
Washington, D.C. 20510

RE: Intergovernmental Relations Subcommittee
Uniform Act

Dear Senator Durenberger:

A recent issue of the Community Development Digest; in its review of the draft legislation by the President's Office of Management and Budget that would limit coverage of the Uniform Act to programs in which federal agencies made specific site or project decisions; indicated that you, as Chairman of the Intergovernmental Relations Subcommittee, believed that the law provides an important and fundamental right to assistance by persons and businesses displaced by governmental-sponsored activity. I most heartily agree with you.

The primary purpose, for example, of the various commercial relocation payments, benefits and assistances should be to allow businesses, displaced by some governmental financed program, to relocate to another location and continue to operate in a manner similar to what existed prior to displacement, except for the possible inconvenience of being at a new location. At the same time while a displacee should receive all of the compensation to which he is entitled, it should be no more than is supported by the Uniform Act and the regulations and procedures eminating from that law. In a sense the business should be able to maintain its "economic position" and be no better or no worse off. Since public funds are involved no displacee should receive excessive compensation. Effective management and administration of the relocation benefits of the Uniform Act should be the corrective factors to "windfall" payments, not the elimination of assistance which often is vital to the continuance of, in particular, the small businesses which are important to the economy of the local communities.

Over the past several years the Redevelopment Authority has developed and implemented procedures and processes which, while assuring that displacees receive their just relocation benefits and payments, at the same time minimize, if not eliminate the possibility of excessive and unwarranted compensations being paid. The defined procedures and related forms which address four specific categories of commercial relocation payments (ie. Moving, Direct Loss, Related Expenses and Business Dislocation) and four residential relocation payments (ie. Fixed Payment and Dislocation Allowance, RHP for tenants, RHP for Downpayment Assistance for tenants and RHP for homeowners) are compatible with the Eminent Domain Code of the Commonwealth of Pennsylvania and the Uniform Act including the regulations and procedures established by HUD and UMTA. With some slight modifications these forms can also be used to assist in performing audit reviews of residential and non-residential relocation files.

The responsibilities of governmental agencies administering relocation programs fall into two main tasks, namely:

(1) To make certain that the person being displaced, whether he be an individual or a business, is given the financial and technical assistance required to make displacement as convenient as possible. In the case of businesses being displaced, particularly small ones, emphasis must be given to aid which will allow successful firms to continue to operate.

(2) Since public monies are used for relocation payments there must be assurances and safeguards so that the funds are properly spent, documentation is adequate and accountability is defined and assigned.

The Redevelopment Authority of Philadelphia has been, I believe, most successful over the past several years in accomplishing both goals defined above. We would be most happy to share with you, other members of the Intergovernmental Relations Subcommittee and your staff our experiences and expand upon, if you so desire, the procedures and formats followed by the Agency.

Very truly yours,

John R Peek

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April 23, 1982

The Honorable David F. Durenberger
United States Senator
Washington, D.C. 20510

Dear Senator Durenberger:

I have been following with some interest recently the issue of proposed amendments to the Uniform Relocation Act in which you are involved. As I read it, you are opposed to the drastic amendments the Administration has in mind. I agree wholeheartedly with your opposition.

Many critics of the Uniform Act point at the apparent burdensome paperwork associated with its administration and the generous benefits a small minority may reap from being affected by it. Some of this criticism is well founded but it does not outweigh the need for protecting individuals from federal, state and local officials who are looking to make their jobs easier. There is already likely too much ignorance of the law on the part of local officials regarding relocation that leads to some potential beneficiaries being displaced without proper compensation. It only takes a relatively fertile imagination to see how local governments would handle the matter with no guidance and requirements at all.

Granted, there are some elements of the law that lead to administrative nightmares, but it is better that these elements are corrected rather than eliminating the whole thing. Making the law inapplicable to remove a few inequities and abuses is like cutting off your nose to spite your face. Neither proposal is a very bright one.

You have been quoted as saying that no one should be left worse off by a federally assisted project and I agree. It is this possibility that should be one's main concern.

There is already substantial scorn for the "federal requirements" associated with CDBG, with local officials scheming to outwit HUD and circumvent regulations. But without these specific guidelines, local grantees would be running over some households and making "deals" with others. If a local CDBG administrator would prefer to handle relocation and acquisition equitably, he'd have no legal leg to stand on to enforce a just policy to do so.

Apparently no one is proposing to make the acquisition portion of the Uniform Act inapplicable, but are restricting the target to solely relocation. However, I fear the acquisition regulations will be the next prey. The same windfall abuse would be forthcoming in that area as it would be in relocation.

I hope you succeed in keeping the anti-relocation forces at bay. CDBG is not a revenue sharing program and should not be treated as one. The Uniform Act may be in need of a tune-up, but it is not ready for the junkyard.

Sincerely,

RIVIERA CONSULTANTS, INC.

James R Cummings

James R. Cummings

JRC/lj